Exhibit 1

David Burnett

SRAM Design and Technology

Austin, Texas · 281 connections · Contact info

Message More...

NXP Semiconductors

University of California, Berkeley

Experience

SRAM Design and Technology
NXP Semiconductors
Aug 2018 – Present · 1 yr 1 mo
Austin, Texas Area

Advanced SRAM Technology
GLOBALFOUNDRIES
Jul 2012 – Aug 2018 · 6 yrs 2 mos

Freescale Semiconductor
22 yrs

Design Engineer
2004 – Jul 2012 · 8 yrs

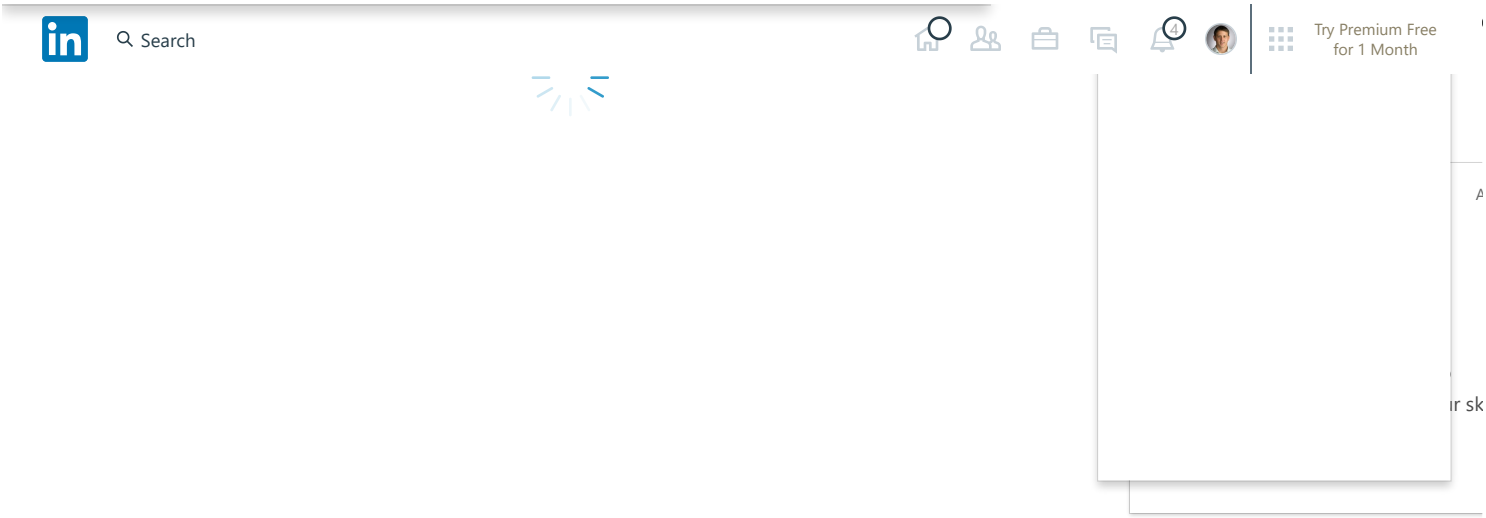
Device Engineer
1990 – 2004 · 14 yrs

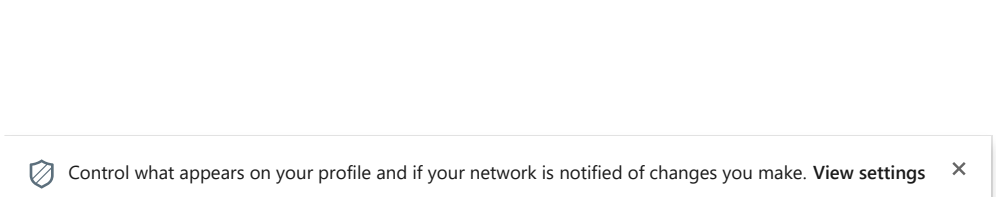
R&D SRAM Technology
Motorola SPS
1990 – 2005 · 15 yrs

Education

University of California, Berkeley
Phd, MS, Electrical Engineering & Computer Science
1984 – 1990

Texas A&M University
BS, Electrical Engineering
1980 – 1984


Search
Try Premium Free for 1 Month


Control what appears on your profile and if your network is notified of changes you make. View settings

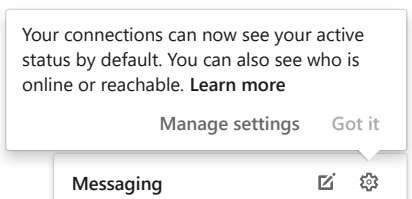

Your connections can now see your active status by default. You can also see who is online or reachable. Learn more
Manage settings
Got it
Messaging

Exhibit 2

Message More...

Prashant Kenkare · 3rd

Senior Director at Samsung Austin Research Center

Austin, Texas Area · 437 connections · Contact info

Samsung Austin Research Center

Princeton University

About

Specialties: Custom circuit design for microprocessors;
Low-voltage SRAM design;
Team management and mentor ... see more

Experience

Samsung Austin Research Center
8 yrs 6 mos

Senior Director
Mar 2015 – Present · 4 yrs 6 mos
Austin, Texas Area

Director, Circuit Design
Mar 2013 – Feb 2015 · 2 yrs

Senior Manager, Circuit Design
Mar 2011 – Feb 2013 · 2 yrs

Distinguished Member of Technical Staff
Freescale Semiconductor
2004 – Mar 2011 · 7 yrs

Custom Circuit Design for Networking Microprocessors;
Includes managing designers, providing technical leadership, and individual hands-on contributions towards high-speed, power-aware design of circuits and memories.

Motorola
14 yrs

Senior Member of Technical Staff
2000 – 2004 · 4 yrs

Custom Circuit Design for Networking Microprocessors;
Includes managing designers, providing technical leadership, and individual hands-on contributions towards high-speed, power-aware design of circuits and memories.

Embedded SRAM Design
1998 – 2000 · 2 yrs

Memory Designer for low-power microprocessors used in portable electronics

Learn the skills Prashant has

Electronics Foundatio
Basic Circuits
Viewers: 117,097

When: The Scientific S
of Perfect Timing (Blir
Summary)
Viewers: 2,917

Learning PCB Design
OrCAD

See more courses

Education

Princeton University
MS / PhD, Electrical Engineering

Doctoral thesis covered radiation effects in MOS devices

Kettering University
BS, Electrical Engineering

Formerly General Motors Institute; Five year work-study program included cooperative work experience with Delco Electronics (formerly a division of General Motors)

Skills & Endorsements

IC · 21

Mangesh Kulkarni and 20 connections have given endorsements for this skill

Circuit Design · 18

Endorsed by **Art Piejko, who is highly skilled at this**

Endorsed by **16 of Prashant's colleagues at NXP acquires Freescale Semiconductor**

Semiconductors · 11

Endorsed by **Carmine Nicoletta and 2 others who are highly skilled at this**

Endorsed by **10 of Prashant's colleagues at NXP acquires Freescale Semiconductor**

Show more

Recommendations

Received (1) Given (6)

Kent Berry
Virtualization Systems Administrator
January 28, 2012, Kent reported directly to Prashant

Prashant possesses excellent management skills, and I consider him an artist at motivating his employees. He provided detailed and authentic feedback, both positive and negative, in a way that left me feeling highly enthusiastic. I would seek to work for Prashant again. Prashant has an exemplary work ethic, ... See more

Search

Try Premium Free for 1 Month

Messaging

Exhibit 3

Connect More...

andrew russell

circuit designer

Austin, Texas Area · 26 connections · Contact info

Freescale Semiconductor

Experience

circuit designer
Freescale Semiconductor

Interests

NXP acquires Freescale Semicondu...
107,065 followers

Exhibit 4

Shayan (ZHANG) Zhang · 3rd

Memory Compiler Design and Verification

Austin, Texas Area · 204 connections · Contact info

Connect More...

TSMC North America

University of Colorado

About

TSMC North America:
Memory Compiler Design and Verification in 40nm/12nm/7nm/5nm technologies.
... see more

Experience

TSMC North America
2 yrs 10 mos

Technical Manager
Nov 2016 – Present · 2 yrs 10 mos
Austin, Texas Area

Memory Compiler Design/Custom cache memory design and design verification in 12nm/7nm/5nm technology.

Technical Manager at TSMC
Nov 2016 – Present · 2 yrs 10 mos
Austin, Texas Area

Memory Compiler Design/Custom Cache memory design and verification in 12nm/7nm/5nm Finfet technology.

Senior Member of the Technical Staff
NXP Semiconductors
Dec 2015 – Present · 3 yrs 9 mos
Austin, Texas Area

1) Manager with integrated experiences of design, technology development and product definition.
2) Innovator with strategic IP portfolios and edge of competition and value to customers.
3) Chief designer in memory and analog circuits.
4) Leader with creative thinking and emotional strength to turn things around;

Freescale Semiconductor (China) Ltd.
25 yrs 8 mos

Licensed USPTO Patent Agent
Jun 2007 – Present · 12 yrs 3 mos
Austin, Texas Area

Working with patent attorneys in patent application and prosecutions; Conducting design innovation training seminars; Serving as leading member in patent committees.

Senior Member of Technical Staff

1) Manager with integrated experiences of design, technology development and product definition.
2) Innovator with strategic IP portfolios and edge of competition and value to customers.
3) Chief designer in memory and analog circuits.
4) Leader with creative thinking and emotional strength to turn things around.

Show 4 more roles

Product Marketing Manager and Manufacturing Engineering Manager
Hewlett-Packard
May 1985 – Jun 1991 · 6 yrs 2 mos

Responsibilities included:
1. Product positioning and definition, especially for China local market.
2. Marketing research and developments;
3. Sales and distribution channel development and support;... See more

Education

University of Colorado
P.h.D., E.E.
1991 – 1993

Tsinghua University
M.S., E.E.
1982 – 1985
Activities and Societies: 清華大學電子工程系

Harbin Institute of Technology
B.S., E.E.
1978 – 1982
Activities and Societies: 哈爾濱工業大學

Licenses & Certifications

Licensed USPTO Patent Agent (Reg. No. 60536)
USPTO
Issued Jun 2007 · No Expiration Date
Credential ID 60536

See credential

Exhibit 5

Michael Snyder

CPU Architect at Apple

Austin, Texas Area · 338 connections · Contact info

Connect More...

Apple

University of Michigan

Experience

CPU Architect
Apple
Nov 2017 – Present · 1 yr 10 mos

Processor Architect
Oracle
Feb 2010 – Oct 2017 · 7 yrs 9 mos

Distinguished Member of Technical Staff
Freescale Semiconductor Inc.
Jun 1992 – Jan 2010 · 17 yrs 8 mos

Processor Architect
Motorola
1992 – 2003 · 11 yrs

Education

University of Michigan
1986 – 1992

Recommendations

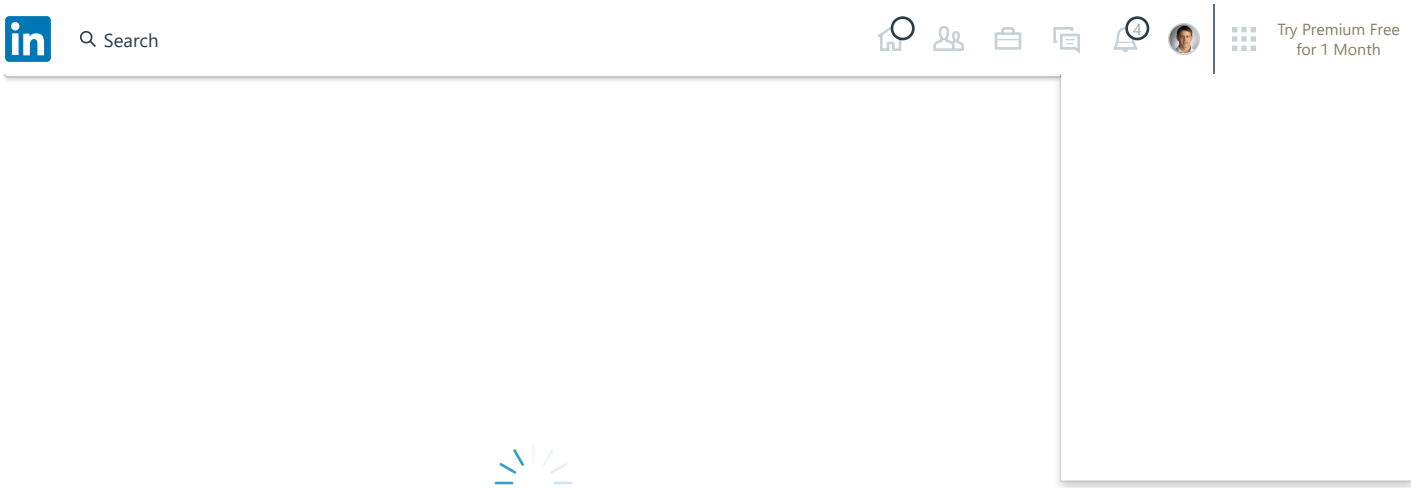
Received (0) Given (2)

Eric Quintana
at Intel
October 26, 2009, Michael was senior to Eric but didn't manage directly

I worked with Eric for several years in the development of two Power Architecture cores. Eric is a very competent logic designer and an expert in floating point and integer execution unit design. Eric is very responsive to challenges for improvements in the design of execution units and always delivered high qu... See more

Dennis Ackerman
Technology Specialist, Patent Agent at Fish & Richardson P.C.

Dennis is a highly motivated detailed oriented engineer who thrived on solving difficult technical problems in a post-silicon debug environment.


Search
Try Premium Free for 1 Month


Messaging

Exhibit 6

Message More...

Hema Ramamurthy · 3rd

POWER Circuit Design at IBM

Austin, Texas · 500+ connections · Contact info

IBM

The University of Texas at Austin

Highlights

Reach out to Hema for...

Probono consulting and volunteering.

Message Hema

About

Results driven technology, circuit design and design enablement lead for Advanced SRAM Technology, technology risk evaluation, PPA analysis, SRAM circuit and bitcell design and qualification strategy with over 20 years experience on bulk, PDSOI, FDSOI and FinFET CMOS technologies. Lead customer interface for design enablement, SR. ... see more

Experience

POWER Circuit Design

IBM

Oct 2018 – Present · 11 mos

Austin, Texas Area

GlobalFoundries

6 yrs 2 mos

Principal Member of Technical Staff

Dec 2016 – Oct 2018 · 1 yr 11 mos

Austin, TX

Senior Member of Technical Staff

Sep 2012 – Dec 2016 · 4 yrs 4 mos

Senior Member Technical Staff

Freescale Semiconductor

Aug 2003 – Sep 2012 · 9 yrs 2 mos

Senior Design Engineer

Motorola Inc.,

Dec 1995 – Aug 2003 · 7 yrs 9 mos

Education

The University of Texas at Austin
2009 – 2015

Bangalore University
Bachelor of Engineering (B.Eng.), Electrical Engineering

New Mexico State University
MSEE, Computer Engineering

Skills & Endorsements

Low-power Design · 13

Endorsed by **4 of Hema's colleagues at NXP acquires Freescale Semiconductor**

VLSI · 10

Mydung Pham and 9 connections have given endorsements for this skill

CMOS · 10

Endorsed by **Karl Wimmer, who is highly skilled at this**

Endorsed by **4 of Hema's colleagues at NXP acquires Freescale Semiconductor**

Show more

Recommendations

Received (0) Given (1)

Gayathri Easwaran
Sr. Principal Engineer at NXP Semiconductors
October 19, 2013, Hema worked with Gayathri in different groups

Gayathri has excellent analog design skills and a thorough knowledge of PDK and design enablement needs of analog design teams. She has a good working knowledge of the RTL - GDS SoC design cycle and experience in silicon debug that complements her design skills. She meticulously drives design and e... See more

Search

Try Premium Free for 1 Month

Messaging

Exhibit 7

Message More...

Robert Ehrlich · 3rd

Programmable Solutions Architect at Intel Corporation

Austin, Texas Area · 494 connections · Contact info

Intel Corporation

The University of Texas at Austin

Experience

Programmable Solutions SoC Architect
Intel Corporation
Nov 2016 – Present · 2 yrs 10 mos

ASIC Design
NXP / Freescale / Motorola Semiconductor
Jun 1990 – Oct 2016 · 26 yrs 5 mos

MCU Applications & Development Tools
Nippon Motorola Ltd
1990 – 1995 · 5 yrs

Student / Lab Asst (Squeaky 14 Software)
Applied Research Laboratories, University of Texas
1985 – 1990 · 5 yrs

Education

The University of Texas at Austin

Skills & Endorsements

ASIC · 31

Lea Hwang Lee and 30 connections have given endorsements for this skill

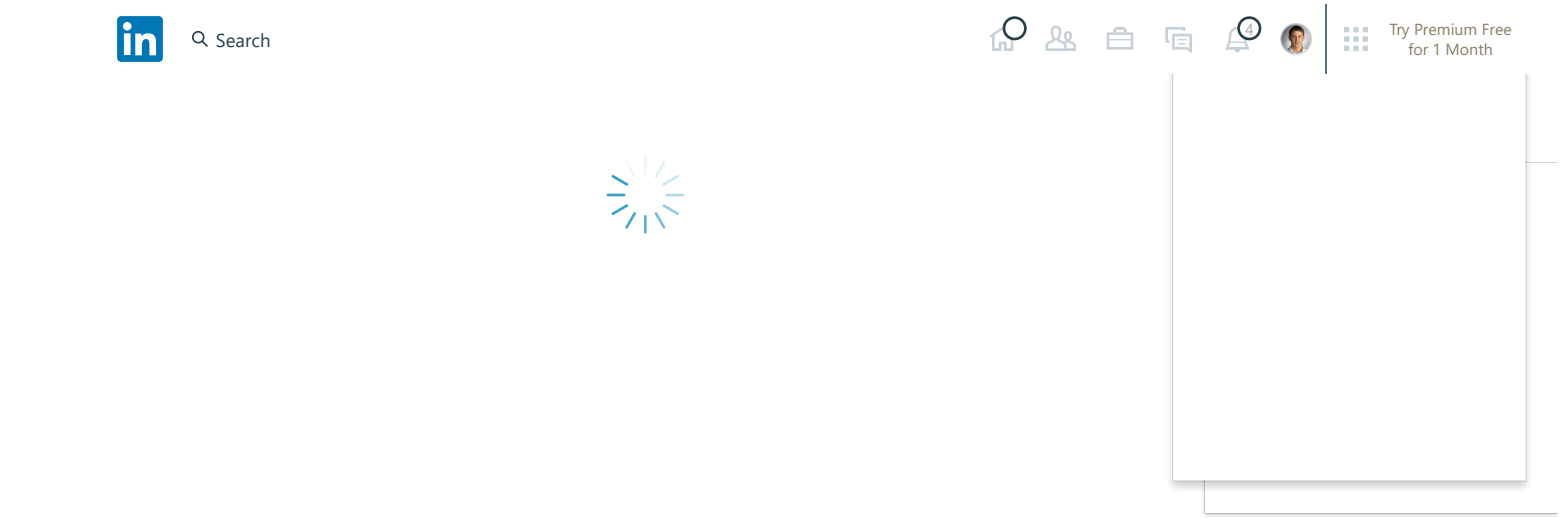
SoC · 26

Ron Halversen and 25 connections have given endorsements for this skill

IC · 22

Homer Hegedus and 21 connections have given endorsements for this skill

Show more


Search
Try Premium Free for 1 Month


Messaging

Exhibit 8

Message More...

Craig Shaw · 3rd

Senior Principal Staff Engineer at NXP Semiconductors

Austin, Texas Area · 345 connections · Contact info

Freescale Semiconductor

Texas Tech University

Highlights

Reach out to Craig for...

Probono consulting and volunteering, Joining a nonprofit board.

Message Craig

About

Specialties: Low power microprocessor system architecture, design, and verification. ARM-based processor system design, AMBA AXI and AHB bus protocols and systems.

Experience

Freescale Semiconductor
40 yrs 2 mos

Distinguished Member of Technical Staff
Apr 2009 – Present · 10 yrs 5 mos
Austin, Texas Area

Team leader for Architecture and design of communications processor systems.

Design Team Manager
Jun 1998 – Apr 2009 · 10 yrs 11 mos

I manage a team of logic design and verification engineers. We create CPU platforms for wireless ICs, mostly cellular.

Design Engineer
Jul 1983 – Jun 1998 · 15 yrs

Logic and circuit design, debug.

Test engr
Jul 1979 – Jul 1983 · 4 yrs 1 mo

CMOS SSI/MSI/LSI test engineer.

Senior Principal Engineer
NXP Semiconductors
1979 – Present · 40 yrs
Austin, Texas Area

Search

Try Premium Free for 1 Month

Education

Texas Tech University
Bachelor of Science (BS), Electrical and Electronics Engineering
1975 – 1979

Skyline HS
HS diploma, Electronics
1972 – 1975

Messaging

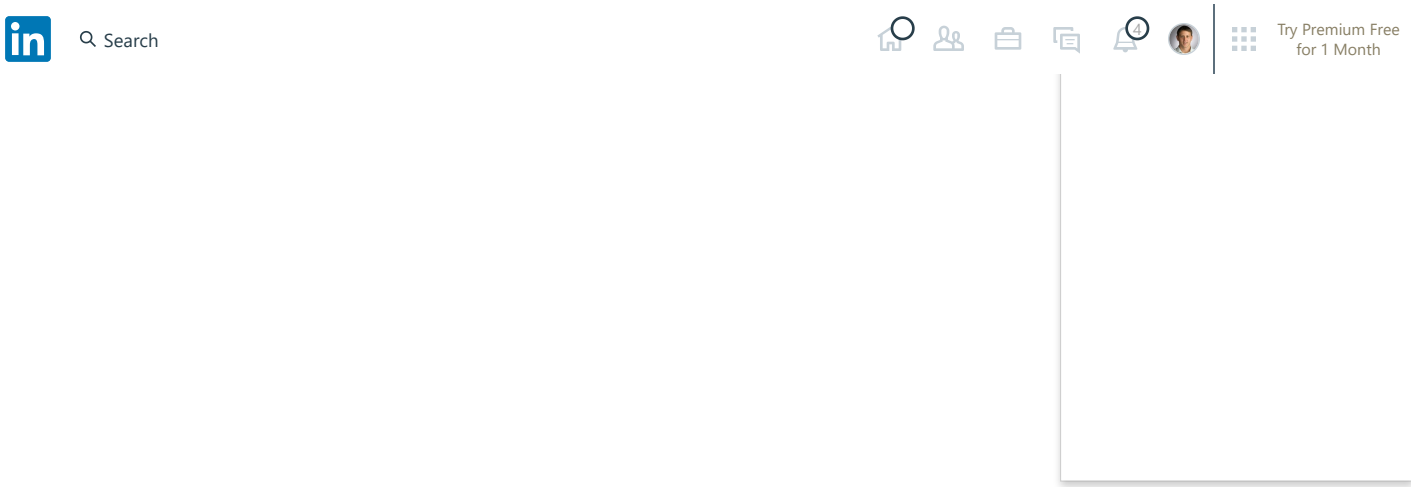

Search
Try Premium Free for 1 Month

Exhibit 9

Message More...

Brett Murdock · 3rd

Product Marketing Manager at Synopsys Inc

Austin, Texas Area · 497 connections · Contact info

Synopsys Inc

Kansas State University

Experience

Synopsys Inc
3 yrs 6 mos

Product Marketing Manager
Mar 2017 – Present · 2 yrs 6 mos
Austin, Texas Area

PMM for External Memory Interfaces.

Solutions Architect
Mar 2016 – Mar 2017 · 1 yr 1 mo
Austin, Texas Area

Member of the DDR PHY Architecture Team focusing on technical pre-sale engagements.

Senior Director, IP Products
Uniquify Inc
Oct 2014 – Mar 2016 · 1 yr 6 mos
Austin, Texas Area

Responsible for managing and marketing DDR controller and PHY IP.

Cadence Design Systems
4 yrs 4 mos

Director of Engineering - DDR Design IP Customer Support
Feb 2014 – Sep 2014 · 8 mos
Austin, Texas Area

Ran the world wide support organization for DDR design IP. My team was responsible for product deliveries, documentation, final Q&A and customer support.

Solutions Architect
Jun 2010 – Jan 2014 · 3 yrs 8 mos
Austin, Texas Area

After Denali was acquired by Cadence I continued to own world wide customer support for the Cadence DDR controller until mid 2012.
I am now in charge of technical pre-sales within the Cadence DDR R&D team, covering our entire DDR solution (Controller and PHY).

Senior Technical Marketing Engineer
Denali Software
May 2008 – Jun 2010 · 2 yrs 2 mos
Austin, Texas Area

Firefighter / Driver / NREMT-B
Sam Bass Fire Department
2002 – 2010 · 8 yrs
Round Rock, Texas

Show 1 more experience

Education

Kansas State University
Bachelor of Science (BS) (dual degree), Electrical Engineering / Computer Engineering
1989 – 1996

The focus of my Bachelor of Science degrees was in logic design, state machine design and processor architecture. Additionally I took 24 hours of graduate courses with an emphasis on logic design.

Search

Try Premium Free for 1 Month

Messaging

Exhibit 10

Connect More...

Bradford Hunter · 3rd

Analog IC Design Engineer

Austin, Texas Area · 63 connections · Contact info

Texas Instruments

Georgia Institute of Technology

Experience

Senior Member of Technical Staff
Texas Instruments
Aug 2008 – Present · 11 yrs 1 mo

Analog Design Engineer
IBM
Jul 2006 – Aug 2008 · 2 yrs 2 mos

Engineer
Freescale Semiconductor
2004 – 2006 · 2 yrs

Education

Georgia Institute of Technology
Master of Science, Electrical and Computer Engineering
1998 – 2004

Skills & Endorsements

Mixed Signal · 6
Robert Fisak and 5 connections have given endorsements for this skill

Analog Circuit Design · 6
Valerie Hunter and 5 connections have given endorsements for this skill

CMOS · 5
Robert Fisak and 4 connections have given endorsements for this skill

Show more

Recommendations

Received (0) Given (1)

People Also Viewed

Dean Gray • 3rd
Director of Engineering - GCi Technologies

Gaurang Shah • 3rd
EVP and GM at YI Technology

Kris Schobert • 3rd
Consumer Electronics Refurbishn
Engineer at Liquidity Services

Pat Tovery • 3rd
Senior Member of Technical Staf
Support at Maxim Integrated

Bill Clark
Vice President of Engineering, Sa
Corporation

Benjamin Sarpong • 3rd
Engineering Manager at Texas Instruments

Casey Teague • 3rd
HR Generalist at Builders FirstSou

Ted Brennan • 3rd
Brentech Management Co

Sherri Gibbs
Office Manager

Tom Bishop
associate professor at Louisiana
University

Learn the skills Bradford has

Electronics Foundatio
Basic Circuits
Viewers: 117,097

CompTIA A+ (220-10(
Cert Prep 2
Microprocessing and

and Verification

August 31, 2012, Bradford reported directly to Shayan

manager. He was the first design manager that I worked for after graduating college as engineer. He taught me best practices to follow as a design engineer to successfully execute projects from start to finish.

Exhibit 11

Message More...

Olga Lu

SRAM/FUSE Design manager at Intel Corporation

Austin, Texas Area · 144 connections · Contact info

Intel Corporation

Experience

SRAM/FUSE design manager
Intel Corporation
Jan 2011 – Present · 8 yrs 8 mos

Project lead for memory compiler design team.
Freescale Semiconductor
2000 – Jan 2011 · 11 yrs

Staff device engineer
Motorola
1998 – 2000 · 2 yrs

Staff product engineer
Xilinx
1996 – 1998 · 2 yrs

Device engineer
Cypress Semiconductor
1994 – 1996 · 2 yrs

Skills & Endorsements

Semiconductors · 12

Endorsed by **2 of Olga's colleagues at Intel Corporation**

Endorsed by **7 people who know Semiconductors**

CMOS · 10

Endorsed by **lawrence herr, who is highly skilled at this**

Endorsed by **7 of Olga's colleagues at NXP acquires Freescale Semiconductor**

IC · 9

Junald Wang and 8 connections have given endorsements for this skill

Show more

Received (0) Given (1)

Chandrani C.
EPM at Apple
December 9, 2009, Olga worked with Chandrani in different groups

I worked with Chandrani at Freescale Semiconductor during past year. She is very detailed oriented person, she helped me to bring new statistical internal tool for the analysis of the memory design margins. I enjoy working with Chandrani, she was very helpful in her job as a member of internal tool development team... See more

Exhibit 12

Connect More...

Larry Childs

Design Engineer at Freescale

Austin, Texas Area · 4 connections · Contact info

Freescale
University at Buffalo

Experience

Design Engineer
Freescale

Education

University at Buffalo
1970 – 1974

Interests

University at Buffalo
179,292 followers

NXP acquires Freescale Semicondu...
107,065 followers

Search

Try Premium Free for 1 Month

Messaging

Exhibit 13

Message More...

Craig Gunderson · 3rd

Global NVM Design Technology Manager

Austin, Texas Area · 426 connections · Contact info

NXP Semiconductors

University of Minnesota

Experience

Global NVM Design Technology Manager
NXP Semiconductors
Jul 1987 – Present · 32 yrs 2 mos
Austin, Texas Area

Education

University of Minnesota
1982 – 1985

Recommendations

Received (0) Given (2)

Brian Hutchison
Layout Design Consultant at Everspin Technologies
January 3, 2010, Craig was senior to Brian but didn't manage directly

To Whom it may Concern, I have worked with Brian Hutchison in the Memory Design group at Freescale/Motorola for several years. Brian is very professional, well organized, quality orientated, motivated, and a skilled layout designer. Brian is very easy to work with and always open to discuss technical challenges a... See more

Denis Kuznetsov
Head of marketing technology platforms, Mail.ru
April 14, 2008, Craig worked with Denis in different groups

Denis has led our web development and support activities at Freescale. He is very skilled and easy to work with on all types of projects. Denis is very responsive and I highly recommend him.

Interests

University of Minnesota
365,106 followers

Door64: High Tech Professionals
26,379 members

Memory Circuit Design Talent
2,399 members

NXP Semiconductors
218,385 followers

Search

Try Premium Free for 1 Month

See all

Messaging

Exhibit 14

Message More...

Mark May · 3rd

design engineer at Cirrus Logic

Austin, Texas Area · 282 connections · Contact info

Cirrus Logic

Stanford University

Experience

design engineer
Cirrus Logic
Mar 2014 – Present · 5 yrs 6 mos
Austin

analog circuit and system design

RF design engineer
Silicon Laboratories
Feb 2008 – Mar 2014 · 6 yrs 2 mos
Austin

RF circuit design , LNA, mixer, continuous time ADC , resistive/capacitive attenuators

Analog Designer (Director)
Sigmatel
1999 – 2008 · 9 yrs
Austin

Audio dac and adcs
Dc-Dc converters and power management
Analog system design

analog designer
Motorola
Sep 1992 – Feb 1999 · 6 yrs 6 mos
Austin

Analog design of audio circuits, dac, adcs, etc.

Education

Stanford University
MSEE, Analog Design
1991 – 1992
Activities and Societies: Stanford Ultimate Frisbee

Rice University
BSEE, Electrical Engineering and Applied Physics
1987 – 1991
Activities and Societies: College Bike Team Ulitmate Frisbee Orientation Week advisor

Search

Try Premium Free for 1 Month

Received (0) Given (1)

Sean Cummings
Senior Layout Designer at Silicon Labs
March 7, 2012, Mark worked with Sean in different groups

Sean is a solid layout designer. He is thorough, fast, easy-to-work-with, and has a good head on his shoulders. He is certainly in the top tier of layout designers I've worked with. I was excited to get the chance to write this recommendation, as I'm going to contact HR and see if my present employer ha... See more

Messaging

Exhibit 15a

Connect More...

Danny Mulligan

VP at SigmaTel

Austin, Texas Area · 1 connection · Contact info

SigmaTel

Experience

VP
SigmaTel

Interests

SigmaTel
555 followers

People Also Viewed

Mark Middleton
Hardware Design Engineer at Fre Semiconductor

Anna Worthy • 3rd
Professional Services Project Mar at Freescale Semiconductor

Bobbi Bone • 3rd
Marketing Manager

Patrick Kelly • 3rd
CVP of Wireless IP, AMD. Former founder and CEO at Nitero. Pion Wireless VR.

Russell Schultz • 3rd
at Silicon Laboratories

Cass Meyer • 3rd
Senior Data Scientist at Cubic, CC

Antonio Torrini • 3rd
Consultant at Silicon Labs

Tom Zudock • 3rd
Sr. Director, Software Developme Silicon Labs

Ray Vargas • 3rd
Chip Design Expert

Seror Jasim • 3rd
Software Engineer at SLTX

Learn the skills Danny has

CMO Foundations: W with Leadership and E of-Directors
Viewers: 4,553

CMO Foundations: Cr a Marketing Culture

Search

Try Premium Free for 1 Month

nd

Messaging

Exhibit 15b

Connect More...

Danny Mulligan · 3rd

Entrepreneur

Austin, Texas Area · 500+ connections · Contact info

The University of Texas at Austin - The Red McCombs...

About

Entrepreneur
Technology Executive
... see more

Experience

Director NPD Marketing, Networking & Multimedia Group
Freescale Semiconductor
Jan 2011 – Jul 2011 · 7 mos

Manage the marketing team for the Network Products Group.

Marketing Manager, Broadcast Products
Silicon Laboratories
Mar 2010 – Jan 2011 · 11 mos

Marketing FM tuner products into cellphones. Defined a new product targeting the same market.

Founder/CEO
MultiXtor Inc.
Mar 2008 – Sep 2009 · 1 yr 7 mos

Early stage startup, working on high performance storage products.
Based in Austin, TX.

VP & GM of the MP3 product line
SigmaTel
Aug 1999 – Jul 2007 · 8 yrs

I started the MP3 group, and was general manager of that group until October 2004.

I held various other VP/Sr. VP titles after that, working on operations, design services, and business development.

Design Manager
Conexant
Oct 1993 – Apr 1999 · 5 yrs 7 mos

I joined Brooktree in 1993.
Brooktree was acquired by Rockwell Semiconductor Systems in 1996.
Rockwell Semiconductor Systems was spun off as Conexant in 1998.
1 job + 6 years = 3 different company names.

Education

The University of Texas at Austin - The Red McCombs School of Business
MBA
1996 – 1998

Option II - Executive MBA program

University of Limerick
Bachelor of Engineering, Electronic Engineering
1983 – 1987

Search

Try Premium Free for 1 Month

Messaging

Exhibit 16

Message More...

Mike May · 3rd

Silicon Laboratories

Analog system and circuit designer at Silicon Laboratories

Austin, Texas Area · 276 connections · Contact info

Experience

analog/rf design
Silicon Laboratories
2008 – Present · 11 yrs

Staff design engineer
Silicon Labs
2008 – Present · 11 yrs

Analog system and circuit designer
Sigmatel
2005 – 2008 · 3 yrs

Freescale Semiconductor
7 yrs

analog designer engineer
1992 – 1999 · 7 yrs

design engineer
1992 – 1999 · 7 yrs

Design Engineer
Motorola Semiconductor Products Sector
1992 – 1999 · 7 yrs

Show 1 more experience

Recommendations

Received (0) Given (1)

Sean Cummings
Senior Layout Designer at Silicon Labs
March 8, 2012, Mike was senior to Sean but didn't manage directly

Sean and I worked together on various projects at Sigmatel over the course of several years. Sean was consistently detail oriented, asked appropriate questions and produced high volumes of quality work. He is one of the most productive layout designers I have worked with. Sean had a reputation in the analog desi... See more

People Also Viewed

Matthew Powell • 3rd
Director Engineering at GOODIX Technology INC.

Dave Trager • 3rd
Director Of Engineering at Silicor

Stefan Mastovich • 3rd
Design Engineering Director at S Laboratories

Sherry Wu
Mixed signal Principal Design en at Silicon Labs

Sarah Walton • 3rd
Senior IC Layout Designer at App

Xiaowen Wang • 3rd
CAD Engineer of Silicon Labs

Steve Richmond • 3rd
Design Engineering Manager at S Labs

Xun Yang • 3rd
Design Engineering Manager at S Labs

Jeremy Smith • 3rd
Senior ESD Design Manager at S Labs

Dan Kasha • 3rd
Distinguished Engineer at Silicon

Learn the skills Mike has

CMO Foundations: Cr a Marketing Culture
Viewers: 3,301

When: The Scientific S of Perfect Timing (Blir Summary)

Search

Try Premium Free for 1 Month

Messaging

Exhibit 17

Kevin Locker

Engineer at Intel

Phoenix, Arizona Area · 14 connections · Contact info

Connect More...

Intel

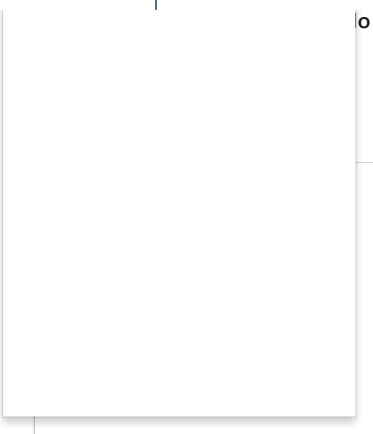
Experience

Engineer
Intel

Interests

Intel Corporation
1,436,637 followers


Search
Try Premium Free
for 1 Month



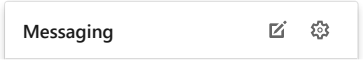

Messaging

Exhibit 18

Connect More...

Matt Henson · 3rd

May 22, 1976 - February 16, 2011

Austin, Texas Area · 231 connections · Contact info

NA

Carnegie Mellon University

About

www.matthenson.com

Experience

Deceased
NA
Feb 2011 – Present · 8 yrs 7 mos

Senior Product Manager
Silicon Laboratories
Feb 2009 – Feb 2011 · 2 yrs 1 mo

Founder
LiveMosaic
Apr 2007 – Feb 2011 · 3 yrs 11 mos

Director, Strategic Innovation
Integral Wave Technologies
Aug 2006 – Apr 2007 · 9 mos

CTO
Xware Technologies
Jan 2006 – Aug 2006 · 8 mos

I'm responsible for developing Xware's marketing, business and technology strategy.

Show 4 more experiences

Education

Carnegie Mellon University
BSECE, Electrical Engineering, Psychology
1994 – 1998
Activities and Societies: Student Government

Embedded Systems · 9

Endorsed by **Franz Weller and 1 other who is highly skilled at this**

Endorsed by **6 of Matt's colleagues at SigmaTel**

SoC · 9

Mike Warren and 8 connections have given endorsements for this skill

Semiconductors · 8

Endorsed by **Steve Cox, who is highly skilled at this**

Endorsed by **4 of Matt's colleagues at SigmaTel**

Show more

Recommendations

Received (2) Given (3)

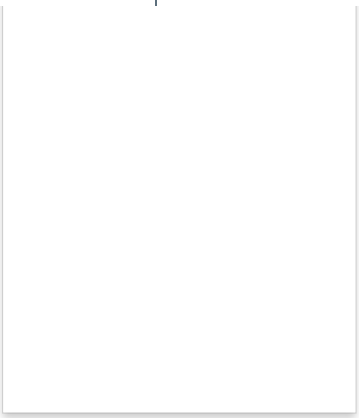
Aaron Martin
Senior VP Secure Engineering, CHO BLAKFX
September 4, 2006, Matt worked with Aaron in the same group

By far the most intelligent person I've ever worked with in my career. Outgoing, Vocal, and highly creative.

Josef Zeevi
Responsible for customer-facing issue resolution and new technologies and internal FW development processes.
April 12, 2006, Josef worked with Matt in different groups

Matt's a brilliant architect with a broad understanding of the needs and requirements of the market. He's knowledgable about how to get there, and smart enough to know how to drive and focus others in the same quest.


Search
Try Premium Free
for 1 Month



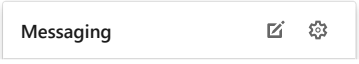

Messaging

Exhibit 19

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

WACO DIVISION

VLSI TECHNOLOGY, LLC	*	
	*	
	*	
VS.	*	CIVIL ACTION NO. W-19-CV-254
	*	
INTEL CORPORATION	*	July 31, 2019

BEFORE THE HONORABLE ALAN D ALBRIGHT, JUDGE PRESIDING
MOTION HEARING

APPEARANCES:

For the Plaintiff:
Morgan Chu, Esq.
Benjamin W. Hattenbach, Esq.
Charlotte J. Wen, Esq.
Irell & Manella, L.L.P.
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067-4276

Andy W. Tindel, Esq.
Mann, Tindel & Thompson
112 East Line Street, Suite 304
Tyler, TX 75702

Craig D. Cherry, Esq.
Haley & Olson, P.C.
100 N Ritchie Road, Suite 200
Waco, TX 76712

For the Defendant:
J. Stephen Ravel, Esq.
Kelly Hart & Hallman LLP
303 Colorado Street, Suite 2000
Austin, TX 78701

Gregory H. Lantier, Esq.
Wilmer Cutler Pickering Hale Dorr LLP
1875 Pennsylvania Avenue, N.W.
Washington, DC 20006

William F. Lee, Esq.
WilmerHale
60 State Street
Boston, MA 02109

Court Reporter: Kristie M. Davis
United States District Court
PO Box 20994
Waco, Texas 76702-0994

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

(July 31, 2019, 2:01)

THE BAILIFF: All rise.

(Call to Order of the Court)

THE BAILIFF: Court is now in session. Please be seated.

THE COURT: Good afternoon.

DEPUTY CLERK: Motion hearing/scheduling conference in Civil Action W-19-CV-254, styled VLSI Technology, LLC vs. Intel Corporation.

THE COURT: Counsel, if you would be so kind as to introduce yourselves, introduce any clients you might have. Primarily let me know who is going to be speaking on each side's behalf.

And then -- Mr. Ravel, you're not willing to wait your turn?

(Laughter.)

THE COURT: I'm kidding. Go ahead.

MR. TINDEL: Good afternoon, Your Honor. Andy Tindel. I'm here on behalf of the plaintiff VLSI, Inc., and with me today we have Morgan Chu.

MR. CHU: Good afternoon, Your Honor.

THE COURT: What an honor to have you here.

MR. CHU: Thank you.

THE COURT: We met earlier this year at a dinner I believe either in California or in Virginia. I was giving a speech at a CLE and -- was it in Virginia? There was a --

MR. CHU: It was actually California and I think Judge Schroeder introduced us.

THE COURT: That's absolutely right. Okay. I forgot. I gave three speeches that week and I couldn't remember where it was, but it was a privilege. And that's right. And then we had the wonderful talk at that speech where they honored you. That was a wonderful evening.

MR. CHU: My honor to be in your courtroom.

THE COURT: Pleasure to be here.

MR. TINDEL: Your Honor, we also have Ben Hattenbach with the Irell & Manella firm.

MR. HATTENBACH: Good afternoon, Your Honor.

THE COURT: Okay.

MR. TINDEL: Charlotte Wen of Irell & Manella.

MS. WEN: Good afternoon, Your Honor.

MR. TINDEL: And last and certainly least is our local counsel Craig Cherry. We're ready to proceed, Your Honor.

(Laughter.)

THE COURT: Hard to do better than that, Mr. Ravel?

MR. RAVEL: I'll do my best, Judge. Steve Ravel. Pleased and proud to be here representing Intel Corporation. Along with me are two people from the Wilmer firm Greg Lantier and Bill Lee.

MR. LEE: Good afternoon, Your Honor.

THE COURT: Mr. Lee, quite an honor to have you here.

This is a -- this -- I'm going to go on the record and say I doubt lawyers of this -- I don't want to insult -- I'm sure in other cases there have been lawyers of this caliber, but I would suggest that in patent cases this is probably a landmark day. And so I appreciate everyone who's here.

MR. RAVEL: And back in the pews is our client Mashood Rassam, and you know Sven Stricker my colleague.

THE COURT: I do.

MR. STRICKER: Good afternoon, Your Honor.

THE COURT: Before we get started, I need to put on the record I think I'm going to list everyone. As you all know, at least a couple of you know, I did practice in this area a little bit and I think I've got it straight. Maybe I'm missing something, but as best I can tell, during the course of my practice of those people who are in this case, I've represented Intel. I represented Freescale. I've represented SigmaTel. I've sued SigmaTel. But I have never represented the plaintiff. And so I don't believe I have any conflict. All of that was a substantial amount of time ago that I represented any of those companies, probably at least six or seven or eight years since I've had that representation, but I wanted to let you all know that -- especially because I practiced in Austin, you know, I'm familiar with the Austin companies. And so if someone has a problem with that and wants to at some point raise it, let me know. You know, I think I can be fair and

impartial, given how I've represented companies on -- you know, on every side, but, you know, I wanted to make sure I disclosed.

So with that being said, I believe probably the motions that I want to take up were filed by the defendant and I'm happy to hear from you.

MR. RAVEL: You'd like to hear the transfer motion first?

THE COURT: Entirely up to you.

MR. RAVEL: All right. Mr. Lee is going to take care of that for us. How many booklets for the Court and staff, Judge?

THE COURT: I need one. Lewis probably needs one and the court reporter for sure will want one.

Yes, sir.

MR. LEE: May I proceed, Your Honor?

THE COURT: Please.

MR. LEE: Thank you. Your Honor, I'll address the transfer motion first, and let me start by saying two things that I think distinguish this from many of the transfer motions Your Honor saw in practice and Your Honor has seen since you assumed the bench. The first is that this is a different type of transfer motion where the focus is on forum shopping. The second is this is a different type of transfer motion because the chronology of events that bring us to your courtroom are largely undisputed. They're just events that happened on specific days and specific things occurred, and it is those

series of events that we suggest and have argued to Your Honor justify transfer.

So if, Your Honor, I would take you to Slide -- go immediately to the chronology because I think it's the chronology that distinguishes this case from others and it's a chronology that makes fights about who did what, when, where less relevant in this case than it would be in another transfer motion.

So if I take Your Honor to that first Slide 2, this is, as Your Honor knows, the third, fourth and fifth case among the parties. And the first case was in California and Slide No. 2 gives Your Honor the background of the California case before it was stayed.

And without taking Your Honor through each of the events, let me just identify some of the important events. First, it was indisputably the first case filed. As Your Honor can see, it was filed on October 2nd, 2017.

Second, a lot occurred in that case, including, if Your Honor goes to June 21st, 2018, the filing of damages contentions claiming damages in the neighborhood of one to $8 billion, a number that's been made on the public record.

After that point in time several important things occurred. First, the magistrate judge in California found the defendant -- the plaintiff's damages contentions deficient and ordered them to be revised or represented.

Second, we sought IPRs on all of the eight patents. They were allowed as to six. Those are proceeding.

And then there was a claim --

THE COURT: May I interrupt you?

MR. LEE: Surely.

THE COURT: On the IPRs that were instituted between December 4 and March 1st of 2019 on the six patents, are those on all the claims of those six patents?

MR. LEE: All the asserted claims. Yes, Your Honor.

THE COURT: Okay.

MR. LEE: And after that occurred so that we had six patents where IPRs had been asserted on all the asserted claims, two not instituted, there was a Markman hearing where Judge Freeman allowed us to argue and she construed approximately ten terms. At the end there was not a dispute about a couple.

After that series of events after the damages contentions and the billions of dollars have been found to be deficient, after the IPRs had been instituted, after the Markman hearing occurred and had been decided, we told VLSI we were going to move to stay the proceeding. They ultimately agreed. Then what happens? If I turn Your Honor to Slide 3, I'm going to take you through the chronology again because I think it speaks volumes.

On June 28th, 2018 VLSI files Action No. 2, what we call

the first Delaware action. It was filed seven days after the district court in California found the infringement contentions of VLSI to be deficient.

If I take you to Slide No. 4, Your Honor, the next event is a motion to transfer where we suggested that the case be transferred to California in part because Judge Freeman had done an awful lot of work, was up to speed and that there were efficiencies to be gained. I think what's important for our purposes today, Your Honor, is what VLSI said in opposition to that motion. And I think I'm going to be able to show Your Honor shortly that what they said then is the opposite of what they said to you.

So if I turn you to Slide No. 5, these are quotes from their brief. And I'm not going to go through each, in the interest of time, but to focus Your Honor on the third quote from the brief, it says: Delaware has a strong interest in adjudicating disputes among its corporate citizens. As Your Honor knows, both VLSI and Intel are Delaware corporate citizens. But they went further in an effort to defeat the transfer motion and they filed an affidavit by Michael Stolarski, the only employee of VLSI and the CEO.

And I take you to Paragraph 9 which is the second paragraph on Slide No. 6: I am not aware of any VLSI witnesses who would be unwilling or unavailable to travel to the District of Delaware for trial or any other court proceeding.

Those are the arguments that were made in opposition to the motion to transfer.

THE COURT: Well, who would VLSI witnesses be?

MR. LEE: Your Honor, it's hard for me to predict, but the VLSI witnesses could include Mr. Stolarski.

THE COURT: Got that.

MR. LEE: They also could include some of the inventors who have been described to you of the patents inventions originally who might travel to the trial to testify about their inventions, their patents.

THE COURT: But they couldn't be compelled to go to Delaware?

MR. LEE: They could not be compelled. They are not within the subpoena power of Delaware. Some of them would be within the subpoena power of this Court, and that's an argument that VLSI has made to you.

THE COURT: And that's an important argument I think. How many of the -- with respect to the patents that are asserted in this case, what is Intel's position with respect to how many of the inventors are in this district?

MR. LEE: It's 14 out of 16. And, Your Honor, if I could just add one point to that fact.

THE COURT: You have -- take all the time you want.

MR. LEE: All right. Thank you, Your Honor.

The fact that 14 of the 16 of these inventors are in this

district and in Austin, that was a fact that was true the day this case was filed in -- the second case was filed in Delaware. That was a fact which was true while the case was pending in Delaware. Not withstanding that fact, VLSI filed on six of the eight patents before Your Honor in Delaware. So that fact hasn't changed.

THE COURT: I understand. Again, that's why -- I'll ask, you know, Mr. Chu as well, but, you know, I'm not sure what VLSI witnesses which they're talking about. In other words, I'm actually also saying maybe -- maybe this was a statement that may have looked bold in Delaware without really meaning very much, because when you peel it back, Mr. Stolarski may have been the only VLSI witness he was talking about.

MR. LEE: Your Honor, I think that may well be true. I don't know because I wasn't involved, but I had to take it at face value. I think if Your Honor looks at Paragraphs 8 and 9, Paragraph 8 talks about the convenience to him of the case being in Delaware. Paragraph 9, at least as I read it and fairly interpret it, is talking about others.

THE COURT: Well, and also -- I mean, look. I know a lawyer wrote this and I'm not letting Mr. Stolarski slide, but by him saying I'm not aware of any VLSI witnesses who would be unwilling or unable to travel to the District of Delaware for trial or any other court proceedings, the reality is -- and you've tried probably a thousand more patent trials than I ever

had. Maybe I'll catch up to you on this side of the bench, but it'll take awhile, but, I mean, the reality is that in this district the inventors can be compelled to testify.

MR. LEE: Your Honor, we don't dispute that for a second.

THE COURT: And in Delaware or California they cannot.

MR. LEE: Your Honor, that's -- we don't dispute that for a second.

THE COURT: Okay.

MR. LEE: Now, in California there would have been Intel witnesses and former Intel employees who were involved in designing the products -- designing the products that were at issue in the California case that could have been compelled. Some of them are current employees would have brought them.

THE COURT: But my experience typically from the handful of times I was on the plaintiff's side, one of which unfortunately your firm was on the other side and I think it's the only case I lost. Not that I would hold it against your firm for that. They did a great job, but I think as far as the plaintiff is concerned in terms of being able to compel witnesses, they can depose those guys and then Intel decides whether or not to call them to trial or present them by -- is my experience. Here as far as the plaintiff's concerned -- I'm going to ask these hard questions of the other side too.

MR. LEE: Sure.

THE COURT: But here in fairness to the plaintiff and what

they want to do, certainly this district allows them to have folks that I think most plaintiffs would want to be able to call in their case and be able to compel them.

MR. LEE: Your Honor, we don't dispute for a second that what you said is correct that 14 of the 16 are here. They can be compelled. As I said, that was known before when the case was filed in Delaware. So the disadvantages that Your Honor is articulating are in fact true based upon your experience and mine which is the same. They were precisely the same disadvantages on the day that they filed the suit, and if I could, I'd like to skip ahead with that in mind just -- and then I'll come back to the chronology.

THE COURT: However you want to do it.

MR. LEE: If I could take Your Honor to Slide No. 15, and I'm going to come back to the series of events that lead to the filing of the second Delaware action, but what I'd like to do, having in mind the hard question Your Honor has just asked is to do this: As I said, on the date Delaware 2 is filed, these 14 folks, or actually a substantial portion of them, lived in Austin. They were here. They knew about it, but the case was filed in Delaware. So when we moved to transfer to California, largely for efficiency reasons because it was so far along, I think it's helpful to see what VLSI said, and I'm just going to show you VLSI's words.

So if I take you to Slide 16. And the reason I want to

skip ahead is because the very first comparison is I think at least relevant to what Your Honor has identified as an issue for us. So on Page 16 when they were opposing the motion to transfer, VLSI said, quote: Delaware is more convenient for VLSI witnesses in this case. Now, it's just not talking about Mr. Stolarski now. It's witnesses, plural. When they oppose the motion before Your Honor, the District of Delaware is remote from all known witnesses and relevant events.

Now, for sure these are drafted by lawyers, but they're drafted for a reason. In one case a defeated transfer motion, in a second case a defeated transfer motion, and to me they are the opposite, but it's not the only occurrence.

If I take Your Honor to Slide 17, this goes to the question of design and development, and Your Honor knows from the papers that have been filed the question of whether these were designed and developed within this district is we think undisputed, but VLSI has suggested it is disputed, but let's just look at what they said again, again their words. Quote: In opposing the motion in Delaware as a matter of law, a claim for patent infringement arises wherever someone has committed acts of infringement. Intel attempts to shift the analysis to the location of the design and development of accused products.

What do they say to Your Honor? The accused Intel products include key features that are accused of infringement here, the technology for which appears to have been designed

and developed at least in significant part by Intel engineers in this district.

Slide No. 18, Your Honor.

THE COURT: Let me ask you this.

MR. LEE: Sure.

THE COURT: Leaving that aside for a second what the lawyers may have said in trying to protect wherever they were trying to protect at the moment, does Intel have a position on whether or not -- ignoring just for a second the Delaware statement, does Intel have a position on whether or not the statement that was made that you just read about Texas is correct or not?

MR. LEE: Your Honor, the answer is the statement is the principle's correct. It factually doesn't have an effect here because what Your Honor has before you is a sworn declaration from one of our witnesses Mr. Herrgott who says, based upon his investigation, none of the design and development work for the accused products in this case was done in Austin. And that's the only sworn statement before you. So the reason I'm trying to break down and I --

THE COURT: No. No. That's a perfect answer.

MR. LEE: Yeah.

THE COURT: That's what I'm trying to get to is leaving aside the potential inconsistency between the two statements, is it Intel's position that the accused Intel products and the

features therein were not designed in the Western District?

MR. LEE: As far as we can determine based upon what we have now, yes.

THE COURT: Okay.

MR. LEE: And that's the declaration that we've put in. And so that's why I say, Your Honor, the principle's correct, has no factual application here.

THE COURT: And I've reviewed that. I knew that, but it's helpful because I -- obviously when counsel for the plaintiff gets up, I'm assuming he's going to say something different, but I just wanted on the record to have your position on this.

MR. LEE: No. I appreciate it. And, you know, I'm sure they will say something different. I guess the point I'm trying to make is they already have said something different --

THE COURT: Yeah.

MR. LEE: -- on two different occasions.

So if I take you to Slide No. 18, Your Honor. When they're opposing the motion in Delaware, quote: Delaware has a strong interest in adjudicating disputes among its corporate citizens. I had mentioned that to Your Honor before.

To Your Honor they say: The Federal Circuit has reversed courts that have allowed cases to proceed in venues to which the only real connection was party incorporation.

THE COURT: I bet they'd have ten Federal Circuit cases that supported both of those statements.

MR. LEE: I think you can have them go both ways, but I think, Your Honor, when you have the same case or the same set of cases and the same parties and you're articulating a principle in order to get an advantage because the motion to transfer to California was denied. To then reverse course and take a different position is at least something that Your Honor can consider. And I'm not suggesting that it's all by itself ipso facto dispositive, but it's something that Your Honor can consider for sure, and there's a couple more --

THE COURT: I hate to interrupt you, but -- and you'll all appreciate why I am though. We have a jury out and I just got a couple of notes, and so if I could have the other lawyers step up for just a second so I can respond to the jury. I apologize, Mr. Lee, but I bet you've been in this position as well.

MR. LEE: I have.

THE COURT: And so...

MR. LEE: And I know that when I was, I thought they were much more important than me.

(Recess taken from 2:23 to 2:24.)

THE COURT: Mr. Lee, you're back up.

MR. LEE: Thank you, Your Honor.

Your Honor, I took you to Slide 19.

THE COURT: Okay.

MR. LEE: And I won't read the quotation, but again this

is just another contradiction, in our view, in representations made to the two different courts, Judge Connolly in Delaware and Your Honor here. I think the important point here, Your Honor, and the reason I skipped to this part quickly is in light of Your Honor's question about the undisputed fact it's the location of the inventors. What the cases say and the cases that follow on Page 19, 21 and 22, and I won't belabor them, is they say when forum shopping has occurred, when the privilege of picking your own forum has in some sense been manipulated for whatever reason, that can trump the traditional factors of convenience of the parties, convenience of the witnesses. So what I would say to Your Honor is if you just focused exclusively on the location of the inventors and that were dispositive in some way, it would be a harder motion for us to bring to Your Honor.

THE COURT: Well, tell me this, Mr. Lee. What -- in terms of the things I am supposed to consider, I don't care which of the -- regardless of where else we're talking about, the reality is that this Court can get you to trial 12 months from now, 16 months from now. And whatever Delaware is, it's longer and probably at least twice as long if that. I mean, and so what -- and I'll ask plaintiffs of course, but where does that rank in the scale of things I should consider that the reality that really virtually compared to any other court you could mention I can get you to trial quicker?

MR. LEE: Your Honor, it's a perfect question and I think crystalizes what I hope was correct when I first started this which is this case is different. And what makes it different? The first is there is a case with related technologies, overlapping inventors, almost overlapping products that's scheduled in Delaware for November of 2020. So we have a trial date. It's not two and a half years off. It's in November of 2020, and Judge Connolly has had three or four different hearings already and has a Markman hearing scheduled for November of this year.

I think, Your Honor, what the cases say, and the cases I'm referring to are the ones at 21, 22 and 23, are saying is -- and without belaboring the law because I know Your Honor has seen it before, Section 1404 says in the interest of justice.

THE COURT: Uh-huh.

MR. LEE: And forum shopping is not in the interest of justice. And if you have forum shopping, even if you were to create a checklist of the public and private factors and that checklist in a particular case might counsel you to denying transfer, you can't ignore the forum shopping. And I think the reason this case is different, Your Honor, is this: These are the third, fourth and fifth cases. There has been, in our view, they'll disagree, forum shopping at the outset when California was stayed and we moved to Delaware. Then a series of events occurred which I'd like to take Your Honor through

very briefly because there's a reason that the Delaware case got dismissed when it got dismissed and we appeared here.

THE COURT: Okay.

MR. LEE: So what these cases say, Your Honor, is VLSI would like Your Honor to think that the Volkswagen case has created a checklist and you just go through and you check them off plus, minus, neutral and see where you come out. What Volkswagen and the Fifth Circuit said is, no. That's not what the law is. The law looks at all the factors, and they even say, even if you look at the location of the inventors, 1404 here, even if we take as given that Your Honor could get us to trial on these cases let's say ten months earlier, we can't look at that in isolation. And if we look at it in the context of the California action, the first Delaware action, what occurred in the Delaware action before the cases came to Your Honor, that type of forum shopping is not in the interest of justice. And I understand that the lawyers drafted the briefs that create what I think are the contradictions, but part of the interest of justice analysis, Your Honor, is, is it in the interest of justice for Your Honor to deny a transfer motion when this is what has occurred? And that's why if this were a garden variety transfer case, Your Honor, I'd be the first person to suggest -- to admit in response to Your Honor's questions that it is, but what the case is at Slide 20 says if you have someone who takes one position at one time and then

changes it for another, you at least ought to look at it skeptically.

When you move to Slide 21, it says: Judicial economy and the interest of justice are paramount considerations.

And at Slide 22, Your Honor, and I'm hoping this is the answer to Your Honor's specific question, the cases have specifically said that even if you look at the public and private factors and they would indicate to you that the motion should be denied, the interest of justice can trump those, and the cases have specifically said -- if I turn Your Honor to Slide 25 and 26, they have specifically said forum shopping is the type of public interest that justifies transferring even if walking through the public and private factors would lead you to a different result in isolation.

So I think the answer to Your Honor's question is it is a critically important question. The facts that Your Honor has identified are probably the most difficult for me to address. My response is, you can't view them in the abstract. You have to view them in the context of what occurred before we arrived in Waco. We have to view them in the context of the two cases that occurred before and we have to view them in the context of whether this series of events could fairly be characterized by Your Honor as someone acting in the interest of justice.

THE COURT: Okay.

MR. LEE: If I --

THE COURT: Can I ask you a couple of questions?

MR. LEE: Sure. Sure.

THE COURT: First I understand that there is a -- there are patents with related technology that would go to trial in November of 2020 with -- the Markman is in November of this year.

MR. LEE: Right.

THE COURT: And then trial would be November of 2020. Did I --

MR. LEE: November 2020.

THE COURT: What would your estimate be if this case were transferred to Delaware? What is your estimate for when it would be tried?

MR. LEE: Your Honor, I'll give the honest answer. I don't know. Right before the cases were brought to Your Honor, we had moved to consolidate the two, the two sets of cases. Now, there are some differences in the patents in the technology to be sure, but for us the overlap in the accused products, the overlap in the witnesses, the overlap in the damages theory led us to move to consolidate. So what occurred, Your Honor, and it's in the slides, but let me summarize it if I could is once the second -- what happened is this: The California action is stayed. On the very same day VLSI files the second Delaware action. And that's on Slide No. 8, Your Honor, just in terms of the chronology. So we now have

six of the patents before Your Honor in Delaware as of March of this year. We tell VLSI we're going to move to consolidate them for efficiency purposes and we move on March the 20th. So we tried to do it promptly. They opposed. On March the 26th -- so all of this is happening close to the same time.

THE COURT: Of this year?

MR. LEE: This year.

Judge Connolly has a motion that is the mirror image of the motion you have on indirect infringement, induced infringement, contributory infringement and willfulness. He did not have the patent issue that Your Honor has. Judge Connolly grants that motion. It's virtually identical to the motion Your Honor's being asked to hear and decide now. We tell VLSI immediately that we're going to move in the second action for the same six patents that are before Your Honor that we're going to move to dismiss those same claims. Then something happens that I didn't quite figure out at the time but I now have figured it out. VLSI's response is to say, we'll give you a two week extension of the time to answer. Well, we didn't --

THE COURT: Which means they can -- which means they can dismiss it?

MR. LEE: What it means is in that two week period there's a hearing before Judge Connolly. They can see what happens at the hearing and they can then decide, and that's in fact what

occurred. And, Your Honor, I've asked for extensions a lot of times. It's very infrequent that you are granted one when you haven't even picked up the phone to ask. So this one was granted unilaterally, and then what happens is there's a hearing before Judge Connolly, and this is on Slide No. 12 just chronologically, and it occurs on April 13th. And I'm not going to -- Mr. Hattenbach and I argued it. We probably disagree about what happened and what the end result was, but I think I can fairly say to Your Honor we argued it. The end result was an order requiring substantial claim narrowing and the judge asked the question about consolidation with the second case. So that's on April the 8th. If I then take -- April the 3rd.

If I then take you eight days later, the case is voluntarily dismissed and refiled before Your Honor on the same day. Now, let me just say three things. One is to reiterate that on April -- in March -- on March 1st when the case was filed in Delaware, the inventors lived where they lived. Most of them live within the district. The documents and the designs occurred years ago. This is all fixed and VLSI filed in Delaware and made those express representations to the Delaware court. And again, if they hadn't made them, it would be different.

The second is that they suggest that the decision to file was because Your Honor had arrived on the bench. You might be

able to get us to trial faster, but as the slides demonstrate, Your Honor had been seated seven months before. The catalyzing event was not Your Honor being seated on the bench but things that were happening in Delaware.

And the third thing is the motion on indirect infringement and willfulness -- enhancement based upon willfulness I think is a fair characterization of it had been denied with opinion by Judge Connolly. We were going to renew it because the allegations were virtually identical, and instead what happens is cases are dismissed. Cases are refiled here. Allegations are substantially identical and Your Honor is now being asked to decide differently the very same motion that Judge Connolly has decided between the same parties in the same general area of technology involving the same accused products. So that's why we would suggest, Your Honor, that this is different, and Slide No. 14 just pulls it all together and identifies the seven month period that lapsed between Your Honor's taking the bench and the filing of these cases.

So if we put it all together, if we don't try to just look at a checklist in the abstract and check off plus, minus. Your Honor remembers from your practice days when experts would get up with the Georgia Pacific factors and just go plus, minus, neutral. That's not the exercise. The statute says in the interest of justice for a reason. It just doesn't say for the convenience of the parties. It just doesn't say for the

convenience of the witnesses. It says in the interest of justice. And so the question for Your Honor that we've argued is in the context of these five different lawsuits, in the context of these events, in the context of the representations that I took you through, the difference, in our view, between what was said to the judge in Delaware, and he denied the motion, and what is being said to you today, what is the only fair characterization of that, and that is we're moving from forum to forum to forum. And we're not only moving from forum to forum to forum. We're asking you, Judge Albright, to decide the very same motion Judge Connolly decided, and the way we can be sure that Judge Connolly is not going to decide it is we dismiss the case in front of him. And that's why the cases in those pages, without going through them, say what they say, which is the interest of justice is paramount. The interest of justice can trump the private and public factors, number of inventors, subpoena power, and it's why it says at the end of the day if there has been forum shopping, and the facts of the cases that are cited in the slides are in some ways I think more benign than what we have here, but the words are there. They say forum shopping is not an interest of justice.

Now, Your Honor, even if --

THE COURT: Can I ask you a question?

MR. LEE: Surely.

THE COURT: And this is completely off track. So if it'd

be easier for you to keep going, I'll let you keep going. If not --

MR. LEE: No. If I give you a completely off track answer, you'll know why.

THE COURT: Okay. I want to go back for just a second. With respect -- we were talking about where folks -- both the inventors are located here.

MR. LEE: Right.

THE COURT: And then I asked you questions about whether or not there are relevant Intel witnesses here.

MR. LEE: Yes.

THE COURT: Do you know whether or not anyone that was involved in designing the accused features, allegedly infringing features is located in the Western District? Is it -- do you know what -- are there any here? I couldn't tell from y'all's briefing whether it was clearly a goodly percentage are in California.

MR. LEE: Yeah. Let me confirm with Mr. Lantier.

THE COURT: Because I know that y'all have a big operation in Austin and so I'm curious.

MR. LEE: Let me say what I think is correct, and if he gives me the look, Your Honor will know why. The answer is for the accused features of the products that are at issue before Your Honor, our best information is none of them were designed here. Not -- they're not made here. There are 1,700 Intel

employees in Austin, but they're not associated with these accused products. And in fact if I skipped ahead, Your Honor, to Slide 31, it's an effort by us to identify the locations of the witnesses. So Intel's witnesses who were involved in designing, developing and manufacturing these products are located in Arizona, Portland, Oregon, and Israel which is what the far right has intended to show. We have put the Intel logo round about Austin because we do have employees here, but as Mr. Herrgott says in his declaration, they were not involved in the design and development of the accused products. So we are going to have to bring witnesses, which we will, from Arizona, Oregon and Israel.

Now, Your Honor, to anticipate the next question, we would have to bring them to Delaware too. The real question is if these two cases had stayed in Delaware in parallel or in companion, whether they were consolidated or not, would these witnesses have to be deposed twice in Delaware? Probably not. Would they have to appear twice for trial? Maybe not. So what I think the law recognizes is when you have cases that could be consolidated for some purposes, and I should say Your Honor has recognized that by saying our three cases will be consolidated for discovery purposes at least, there are efficiencies that can be gained. Witnesses that overlap technically won't have to be deposed once in Texas, once in Delaware. They could have been done together. I think it's the reason -- I don't know

for sure, but I think it's the reason that Judge Connolly inquired about the motion to consolidate because we were just entering the heavy duty discovery period.

So I took Your Honor to Slide 27. I do think that even if you try to tote up the private and public interest factors, and I think Your Honor has asked us about the two that are most difficult for us which is one is the location of the inventors and the question is whose testimony can you compel or whose attendance can you compel, along with the question of time. There are other factors though that if you balance it all out would at least make it neutral, we suggest maybe balance in our favor, but when you balance all of that together with what I've focused the argument on, it doesn't make sense to us that you should be able to, to quote the cases, abuse the privilege of selecting a forum not once, not twice but three times. Now --

THE COURT: I'm sorry.

MR. LEE: No. I'm sorry. You go ahead.

THE COURT: With respect to the folks -- the Intel folks who are located primarily in California, do you have a sense -- and again you can turn to your learned co-counsel. I think it's nice of him to let you have an opportunity to stand on your feet and speak in court. But can you give me an idea of what the frequency is or how ordinary it is in the Intel world for the folks who are located in California who are doing the design work to travel to Texas to work on projects? That may

be too ambiguous for you, but in terms -- you know, I think -- I think we're headed -- I'll just give you -- this isn't particular to this case, but it seems to me -- and you and your opposing counsel are probably two of the smartest people in the world on patent issues. I think a coming issue that courts will have to address is for a company like Intel, Apple, Google, Dell, doesn't matter, if they are making the argument that their people are located wherever they're located, California or Austin or wherever, if it is the practice of that company for those people to routinely travel to this area -- you know, if your engineers are working on a project with Austin people and Engineer Smith is in Austin three weeks out of the year doing stuff, then it seems to me the burden on him of having to be here maybe for a day of trial isn't as extreme as another situation. That's just an issue I see coming. I don't even know that people have been making that argument yet. I haven't seen cases where that's been a factor, but it seems to me it's something that's coming that I'm curious.

MR. LEE: I agree. I've had some cases where the location of the witness had to be amplified by what their duties were and where they traveled to. I think my best information is that the people designed in the design of the accused features are not traveling to Austin to work on those or other purposes. They -- we're sufficiently large that people in Austin are doing something different. For different of these features so

for some of the accused features the work's entirely done in Israel.

THE COURT: I got it.

MR. LEE: We're going to bring some of those folks whether the case is in Delaware or here.

THE COURT: I had forgotten that y'all had such a big Israel presence.

MR. LEE: And the Portland, Oregon facility is quite large too. So, you know, would I say that, you know, whatever travel's done -- no. My guess is --

THE COURT: Of course for the Israeli folks probably flying to Delaware or Austin or California probably is a really long flight regardless. So there's that too. But I'd forgotten there were -- do you have off the top of your head a sort of a broad picture breakdown of what percentage of them are located primarily in California versus the number that might have to travel somewhere regardless?

MR. LEE: I don't, Your Honor. We're in -- you know, the best indication I can give you is that in the first Delaware case but the second case but what we call Delaware 1, we're in the process of scheduling depositions now and some of them are going to take place in Israel. Some of them are going to take place in California. Some of them are going to take place in Oregon. It's going to be where folks are located. Now, part of this is just trying to work things out as agreements between

counsel. What I can fairly say to Your Honor is this: Whether the case is in Texas, in Waco, Austin, Delaware, for each of the patents that remain when we get to trial -- I mean, there are eight now, but as Your Honor knows, it could be eight, could be two.

THE COURT: Yeah.

MR. LEE: We will have an engineer who is intimately involved in the design and development of our accused feature come to testify, and if it's in Waco, it would be in Waco. If it's in Wilmington, Delaware, it will be in Wilmington. I think the real question is whether before you get to that point if I -- to use a hypothetical, if Your Honor had all of these cases, one, two, three, four, five, and a witness, an engineer, had something to say about one of the California patents, one of the Delaware 1 patents, one of the Waco 3 patents, there would be a way for Your Honor to say, okay. He's going to testify for eight hours, but have your day and that's going to be it.

The way things work now or as the landscape is now, they could get him once in Delaware. They could get him once here and we have two separate judges, and the best indication that that's what's going on is why should Your Honor have to decide the motion to dismiss that we're going to maybe find time to argue to Your Honor when Judge Connolly has already decided it? Same parties, same allegation, and what he found specifically

was there wasn't any allegation or sufficient allegation of willful blindness of the act of infringements presuit. Why should Your Honor have to decide it? And then, equally important, why should there be competing determinations from two district courts? If Your Honor had all five cases, my bet is it'd be very unlikely that you would reach two different decisions in two different cases. That's -- that's the issue. I mean, Intel's got 1,700 folks in Austin. We do important work there. We sell nationally. We're going to be in Your Honor's court. And if there are garden variety transfer cases, you're not going to hear the arguments that we're making today. That's why I think that we've made the argument to you on the overlap in the accused products. We've made the argument to you on the general overlap in technologies. We've made the argument to you about the possibility that there will be witness overlap and duplication, and we've made the argument to you that some of that can be ameliorated if all the cases are before Your Honor or all the cases are before Judge Connolly or all the cases are before Judge Freeman. The one thing I'm certain of at my advanced age is having over three different judges in three different locales is not going to promote efficiency, and that's why we suggest, Your Honor, that at the end of the day if you take all of the things that are in the remaining slides, and I won't go through them, the issues that Your Honor has identified, the competing considerations of

where Intel's witnesses are, where the documents are, the fact the witnesses are going to have to travel in any event, the possibility of repetitive depositions, repetitive discovery --

THE COURT: Well, I can assure you if -- and I haven't made up my mind at all. I mean, I really was looking forward to this. It's an odd person that really looks forward to a hearing like this, but I spent all morning sentencing. So it gives you an idea of how my day was, but I can assure you if with respect to at least the issues on duplicative discovery, if the case were to stay here, I would be pretty sensitive to make sure that there was no unfair burden on any of the parties because the cases were in different locations.

MR. LEE: And, Your Honor, we assumed so and we trust it would be so. I don't think it -- I'm not sure it's the most efficient thing for us to have to come back and explain to you that it's duplicative because in Delaware Judge Connolly ordered this. In California Judge Freeman --

THE COURT: I bet you I could resolve that issue. I bet you, number one, having said this, it would be unlikely the plaintiffs would make it an issue that had to be brought back to me, but I resolve discovery issues within a 24-hour period. Just -- and I'm saying I don't know what I'm going to do in this case and maybe that's just information going forward. Like you said, Intel may very well be a plaintiff here tomorrow for all I know. And so -- but just for the record, you know,

discovery motions don't -- that's not going to persuade me. I get your point.

MR. LEE: Right.

THE COURT: There's no question I get it, but that's something that I can handle pretty quickly.

MR. LEE: And, Your Honor, if you go to the last slide and then I'll yield the floor unless Your Honor has additional questions.

THE COURT: Okay.

MR. LEE: Sometimes I found that it helps to step back from the details and the checklists and just look at the chronology and the sequence of events and say to ourselves, so what happened here? And we would suggest that if we do that, the big picture's pretty clear. We start in California. It's not going so great. We file a second case in Delaware. It's going fine, but then California gets stayed and we filed a second case in Delaware. And in March or April of this year, our characterization, not theirs, things are not headed in their direction. And what happens? Case gets voluntarily dismissed. They get refiled here.

At the end of the day, as I said, the chronology is what the chronology is. It speaks volumes. When you overlay, Your Honor, those competing quotations that I gave Your Honor on that chronology, it tells you -- tells us exactly what the Volkswagen case said. The interest of justice is paramount.

And if someone has abused the privilege of picking their own forum, then a transfer motion should be granted. And this is not a question of VLSI having come to Your Honor as its first stopping point. This is the third, fourth and fifth stopping point and the questions are why and what's the right remedy?

THE COURT: I apologize. I focused I think primarily on the issue that is Delaware or Austin. Can you tell me exactly where the California -- I don't know that I'm -- I know as well as I should what the status of the California case is.

MR. LEE: The California action is stayed.

THE COURT: Okay.

MR. LEE: The IPRs are proceeding. There are a whole host of arguments in November -- the fall, the later fall of this year.

THE COURT: Okay.

MR. LEE: The California action is stayed pending those determinations. There has been some third party discovery from the California court that has continued because it's relevant to Delaware.

THE COURT: Okay.

MR. LEE: If Your Honor's -- it may be implicit in Your Honor's question of --

THE COURT: No. There was nothing implicit.

MR. LEE: Okay.

THE COURT: I just -- I realized that I'd focused -- I was

doing the what I should do and I realized I wasn't as intimate with -- because your point is California, Delaware, Waco, and I just want to make sure I understood where it was at in California.

MR. LEE: Yeah. Your Honor, that's exactly where it is at now. The reason that we're not moving to ask Your Honor to transfer it to California is twofold. One is it's stayed. The second is the Court that has gotten up to speed further in the period of time since California was stayed is the Delaware court. And because it's had two or three hearings, because it's -- the Markman briefing is almost done, the hearing's in November, witnesses are being deposed today, we're arguing over discovery and contention issues, the logic of it said to us that send this back to where it came from.

THE COURT: Doesn't the fact that the Markman briefing is almost done for the cases in Delaware right now though indicate to you -- I know I'm asking you to -- it's a mystical question, but it would indicate to me if I were -- if someone -- if I had -- if I knew I was going to a Markman in X couple of months and the Markman briefing was done in that case right now, I'm not sure how I would consolidate other -- six more patents into the case without either the plaintiff saying they don't have enough time or you saying you don't have enough time. So I will confess I'm skeptical that a motion to consolidate that would keep -- that would put these patents on the same track as

your other case is really very likely.

MR. LEE: Your Honor, I think that's a very fair question. It's one we thought about, but I think here's the answer I've at least given myself. We were going to move in March. If the case hadn't been pulled out from under us, that would have been decided by now and Judge Connolly could easily have consolidated the Markman briefing for November of this year around that. You're right in terms of what you just articulated as the challenges now, but that would be rewarding VLSI for having taken the case from Judge Connolly at the very moment that he was asking about the motion to consolidate, bring it down here, taking the time for Your Honor to get your arm's around this collective dispute, get the briefing, get it argued, have Your Honor have a chance to decide it. And I guess the best argument I can make to you is if there's a problem that results from that delay, I don't think it should be visited on us because we moved to consolidate three days after we could, and if the judge had been able to decide it then, all of the things that Your Honor has defined as problems wouldn't have been problems.

THE COURT: So let me summarize what I'm taking away from this. Correct me, I mean, if I'm wrong. But it seems to me that the issue we're discussing right now cuts a little bit in both ways, and what I mean by that is it cuts against probably to some extent your argument that if I send this back, there's

a likelihood it will get on the same track and it is going to be -- these folks will get to trial anywhere as close as what I could get to trial just because even though he has a Markman hearing set in November and a trial set in the following November, I think it's unlikely. The thing that enures to your benefit out of that argument though is, if anything, it strengthens your argument about the concept of forum shopping that, well, that's too bad, but it's their fault because if we had heard the motion to consolidate in Delaware in March, the Court could have had the opportunity at that time to integrate a Markman on all the patents and a trial on all the patents into the same schedule and we wouldn't be facing. Is that a fair summary?

MR. LEE: That's a very fair summary.

THE COURT: Okay.

MR. LEE: And, Your Honor, the best articulation I can give you to end the argument is this. We would ask Your Honor to put yourself -- let's reverse the positions so that Your Honor had the second and third cases. Your Honor decided in another case, maybe not even between Intel and VLSI, a motion under 101, a motion for induced infringement, and as Your Honor has done, you did just a day or two before you issued an opinion. And what happens is one of the parties gets to look at it and says, we don't want to be here anymore. And --

THE COURT: I can't imagine anyone not wanting to be here.

MR. LEE: That's why --

THE COURT: But I'll -- just hypothetically.

MR. LEE: This is all hypothetical.

THE COURT: Yes.

MR. LEE: And all of a sudden the cases are dismissed from your docket and they reappear on Judge Connolly's docket with the very same motions that you've already decided. I think if we asked ourselves just the broad question is, is this really the way the system's supposed to work? Is this the efficient way for the system to work? Is this in the interest of justice? We think the answer is no.

THE COURT: Understood.

MR. LEE: Thank you, Your Honor.

THE COURT: Thank you.

And before I forget, when you see John Regan, please give him my best. He was one of the best lawyers I've ever had the pleasure of being in a case against.

MR. LEE: So was he on the other side of that one case?

THE COURT: Yes. He was.

MR. LEE: All right. I'll remind him both of two things.

THE COURT: Okay.

Yes, sir.

MR. HATTENBACH: Ready for us to respond, Your Honor?

THE COURT: I am.

MR. HATTENBACH: My colleague Mrs. Wen will hand out some

slides. By the way, I'm Mr. Hattenbach from Irell & Manella. It's good to meet you.

THE COURT: My pleasure.

MR. HATTENBACH: I don't think we've met before.

THE COURT: We have the best firms in America here. It's an honor to be sitting in front of you.

MR. RAVEL: Your Honor, may we trouble the VLSI side for copies of their slides, please?

MS. WEN: I just -- my arms aren't long enough.

MR. HATTENBACH: Before jumping into our slides, I think I'm going to start by addressing some of the things that Mr. Lee had to say, and before I do that, I suppose I want to say I've only been doing this 23 years, not as long as Mr. Lee, but I don't think I've ever had a case where the case actually had more of a connection to the jurisdiction in which it was pending than this case. And I'll describe some of the reasons for that as we proceed.

THE COURT: Well, I'm going to speak on Mr. Lee's behalf here, and he can tell me if I'm wrong. My sense is from the concessions he made which showed you why he has the reputation he does, any of us would have to make in terms of that. I think you would do best spending your time on Mr. Lee's point which is doesn't matter. I mean, for example no one can contest that 95 percent of the inventors are in the Western District, and I think he would concede, but he can tell me

later if he wouldn't, had you all filed here first, he probably wouldn't have filed this motion in this case. Maybe he would have because Intel probably wouldn't want him to, but I'm saying it would be a lot tougher starting off with that. I think Mr. Lee is telling the Court that in this situation because of the unique facts that you are in California and what happened in Delaware and what happened that you shouldn't get a third bite at the apple as a public policy matter and that in an ordinary course this would be the perfect place to file the suit. Maybe they'd want me to transfer it to Austin instead of Waco, but they would be conceding the Western District is appropriate. So I would focus primarily on persuading me that Mr. Lee's wrong about the forum shopping argument.

MR. HATTENBACH: Sure. Will do, Your Honor.

So I suppose to start off with on that point, if it was the same case that had been filed in California and then Delaware and then here, it'd be a very different subject, but the fact is each of the patents that were filed in each of those cases is different. Each patent is its own cause of action, and I'd like to just start out by saying it wasn't that anything bad happened in either of those forums that caused us to come here. It was that we learned about Your Honor's expertise in this area. We put it together with the fact that almost all of the inventors and the companies at which the inventions took place were based here and it made perfect sense

to have the case filed here. Now, why didn't we do it to begin with? I'll take the blame for that. I didn't know about Your Honor's expertise in the area until around the second half of March of this year. That's -- that's what happened. It wasn't that we had a bad ruling and we decided to run from some judge, and, in fact, there weren't bad rulings. The way they've described those rulings to you I believe was -- is not only incomplete but misleading, and I will get to that. If you want me to address it now, I could.

THE COURT: No. No. You do it however you want. You don't need to spend a lot of time persuading me that this is an appropriate forum.

MR. HATTENBACH: Okay. Very well.

To start with, Mr. Lee said the focus here is on forum shopping. Forum shopping is not in the interest of justice, and the interest of justice can trump the public and private interest factors. That's what he told you. That is not the law, and if you turn to Slide 4 of VLSI's slide, you'll see this is a quote from the Eastern District of Texas, but it's quoting a U.S. Supreme Court case and they say, plaintiffs are ordinarily allowed to select whatever forum they consider most advantageous, consistent with jurisdictional and venue limitations. And there's no argument here that the selection of this forum is consistent with jurisdictional and venue limitations. And this isn't news to Mr. Lee or to Intel

because they made the same argument in Delaware. They told Judge Connolly exactly the same thing. And you'll see on Page 5 what Judge Connolly told them in response, and we cut the quote short, but he went on to say, the Supreme Court has actually held this twice. The principle that a plaintiff can lawfully engage in forum shopping is fundamental to our federal system. And so what the Supreme Court and Judge Connolly and the Fifth Circuit has said is fundamental to our system is what he says is not the law. We respectfully disagree with his statement of the law.

I think there's another related point on Slide 10 as to Mr. Lee's point that the interest of justice can trump the other factors. This is the Volkswagen case itself out of the Fifth Circuit. And the standard is for the convenience of the parties and witnesses and in the interest of justice, not or, but it's and. And that's an issue that we also addressed in greater length in our brief, but you can't just look at part of the analysis and call it a day. You need to look at the full analysis that the Fifth Circuit says needs to be undertaken.

So let's -- just a quick factual matter. Mr. Lee said in the California case all of the asserted claims were currently subject to IPRs except for the one patent where the IPR wasn't instituted. That's factually incorrect. They didn't even file IPRs on multiple of the asserted claims in the case.

Your Honor had a question about --

THE COURT: Do you have any -- and you may have -- I don't remember it being in the briefing. I don't remember quite that focus, but do you -- are you -- do you have available to you right now a couple of examples of that, or --

MR. HATTENBACH: Could I look that up? I remember there was at least one patent. It was --

(Conference between plaintiff counsel.)

MR. HATTENBACH: We'll try to find that.

THE COURT: If you could find that, I'd like it to be on the record. That way Mr. Lee can respond.

MR. HATTENBACH: Sure. I know the '836 patent was the one that IPR was not instituted on, but, again, I'd say this -- frankly, I don't see the connection between it and anything that's going on here today. I only mention it because it came up while he was speaking and it's just not correct.

THE COURT: That's fine. I just want to make sure you give us enough specific information if possible that Mr. Lee can -- you know, I want to make sure he has a chance to respond to that.

MR. HATTENBACH: Certainly.

Okay. Well, let's -- if we could turn to Mr. Lee's Slide No. 6. This was one that Your Honor had a few questions about. It's the one where Mr. Stolarski said it would be more convenient for him to travel to Delaware. Now, and the suggestion was made that this supports the position that it'd

be more convenient for him to travel to Delaware than here. What Mr. Stolarski was saying is it would be more convenient for him to travel from Chicago to Delaware than from Chicago to San Jose, California. This is in a different case where a motion was being made to transfer to California, not here, and this is just one of many examples where suggestions were made about statements being inconsistent with our positions here where the statements are being taken massively out of context.

Your Honor's question about Paragraph 9 where Mr. Stolarski said, I'm not aware of any other VLSI witnesses, et cetera, on that slide. He, I believe, was just referring to himself. He's the only employee of VLSI. And in that -- in that section. That's my understanding. He was just referring to himself. I think -- my sense of it is that it's probably equally convenient for him to come to Waco as it would be to Delaware from Chicago. I haven't checked the airline routes, but I don't think that's something that this motion should turn on.

I do want to talk about Slide 19 from Mr. Lee's presentation. That's where he had those four points and he presented them as alleged inconsistencies between our positions in Delaware and our positions here, and I want to go through each one of them because I don't think there is any inconsistency between any of them.

So the first one -- and, again, it's Mr. Lee's Slide 19.

We said Delaware is more convenient for VLSI's witnesses in this case. He skipped over the in this case part.

THE COURT: Oh, I caught it.

MR. HATTENBACH: Yeah. We have different patents. We have different inventors. Here the inventors, as we've said, 17 out of 18 of them are in the district. Zero of them are in Delaware.

Now, the suggestion was that there's a very similar situation going on in the Delaware case, and that's not correct. We have inventors from -- I think there are two inventors from Arizona in that case. There's an inventor from the Netherlands. There are three inventors from Israel. And so the locust or the sort of the center of all of those people probably is closer to Delaware than here, but certainly it's not here. So it's just to suggest that that's inconsistent with what we're saying here where the facts are different I think is very misleading.

The second one. The quote on the left from Delaware was about where a claim for patent infringement arises. The quote on the right is about -- it's from a section that was talking about witness convenience or the ability to subpoena witnesses.

THE COURT: I got that too.

MR. HATTENBACH: Just a -- okay. It's a non sequitur.

THE COURT: I actually understand some of this stuff.

MR. HATTENBACH: I'm glad to hear it.

The third one. We did say Delaware has an interest in adjudicating disputes among its citizens. That doesn't mean it's the only place that that can be done, and that was just one of eight factors. And we certainly think here there are other factors that support keeping the case here.

The fourth one. I don't really know what the inconsistency was even supposed to be on this one because we said the time to trial is 2.5 years. I'm not great at math, but by my calculations that's 30 months which is exactly what we told Your Honor was the case here. The new fact, which we didn't have I don't think at the time we made that statement in Delaware, was from Judge Connolly. He says -- he was relatively new at the time. He got hit with a lot of cases and he actually told us he's overwhelmed with cases. So that's just a new fact and I don't think it's inconsistent with 2.5 years being 30 months. So that's all I have to say about Slide 19.

There was some discussion of this. I think he's a financial person, Mr. Herrgott at Intel who provided a declaration about where certain events have and have not occurred. And Mr. Lee said it supports the view that there's essentially no relevant information among these 1,700 Intel employees in the district and Mr. Lee said it was a direct quote. He said it's the only sworn statement before you. That's not correct either. Mrs. Wen my colleague here supplied

a sworn declaration as well. Paragraphs 20 to 26 of that declaration not just speculated about but actually demonstrated that numerous of the people at that R&D facility in Austin have been working on technologies that are implicated squarely by our claims in this case. And we didn't do it in a general manner. We did it patent by patent and technology by technology and we mapped them together and we didn't have the ability to go and depose those people because discovery isn't open yet, but we looked at their publications and their patents, and just as an example, there's a very specific technology that we're accusing in one of the cases called QPI. It's an Intel acronym for quick path interconnect which is an Intel proprietary technology. That's the very specific technology we're accusing. And the employees at Intel in this district have over 100 patents describing or claiming that technology. And so the notion that they don't know anything about it or didn't have anything to do with it is a really difficult one for us to accept. And so I went back and looked at Mr. Herrgott's declaration, and he didn't say the things that Mr. Lee described to you in broad terms about not having anything to do with the products. What he said was those people didn't develop the, quote, "product features." And so what I think is going on here is it's an artfully drafted declaration that's meant to suggest they don't know anything about them, but it's limited to the product features, not the

development of the technology underlying those features that went into those features, and that would make perfect sense because it's not a production facility as far as I know. It's a research and development facility where they develop the technology that then goes on to the productization people to turn it into a product. So for Mr. Herrgott to say they didn't develop the product features really doesn't answer the relevant question of whether they'll have information bearing on our claims in this case about the technology and our evidence which is again under oath from Mrs. Wen in her declaration supplied with our opposition brief absolutely does. It's directly on point.

Another claim that we heard repeatedly from counsel was about the motion to dismiss. Said it's the very same motion with the same allegations. Those are direct quotes. Very same motion, same allegations as in Delaware. And I submit that if Your Honor looks at the -- really all you have to do is look at the order in Delaware. You will see that that is quite far from correct. There were two issues adjudicated in that -- in that order. One was as to a single patent. VLSI did not plead knowledge by Intel of the patent. We've pled knowledge of every patent here, as Mr. Chu will describe later today. So it's not the same issue at all. We dealt with that issue in a very different way. Not only are the patents different. The pleadings are different. It's not -- just not the same. It's

completely different. It's completely contrary to what the situation was there.

The same applies to the other issue that was adjudicated in that ruling which was Intel's knowledge of infringement. And in the second part of that order Judge Connolly said that VLSI had not pled knowledge by Intel of its infringement of particular patents. Well, guess what? In this case we explicitly pled knowledge by Intel of its infringement of each of the asserted patents. And so again the pleadings in this case are actually responsive to the order in that case. They eliminate the problem that Judge Connolly said existed. It's very much not the same motion with the same allegations. It's the opposite.

So those are the principle points I wanted to raise in response to what counsel said. Let me just, if you don't mind, address a couple more points from our slides.

THE COURT: Please do.

MR. HATTENBACH: In Slide 6 this is responsive to some of the arguments they made in their reply brief suggesting that the strong deference to a plaintiff's choice of forum will disappear if the plaintiff happened to have filed a similar case somewhere else previously. Well, that's not the law in this district. The Eastern District here says the deference never disappears under any circumstances. And the only contrary law they cite are I call them corner cases where, for

example, one of them had to do with an accident that occurred in Puerto Rico and the parties litigated the case for four entire years in Puerto Rico before the plaintiff dismissed the case and then filed it somewhere else. Well, that's nothing of the sort like what we're dealing with here. In fact, if -- just to be clear, I want to be clear about what happened and didn't happen in the Delaware case where six patents of -- six patents from which were moved here, add it to two other patents that we filed here to make the current cases.

If you'll go to Slide 9 in VLSI's deck, we're talking about a case that first of all didn't even have all of the patents that are asserted here. Secondly, it was dismissed as a matter of right within six weeks, and there was a suggestion that we did something wrong by giving them the extension. They were asking us to dismiss claims. We were considering whether we wanted to dismiss them or do something else. We didn't want them to have to file or prepare and file a motion to dismiss under the circumstances because we're thinking about moving things to a different place, and essentially we said, we'll give you two weeks while we think about what we're going to do, and the reason was we didn't want to put them through unnecessary work. It wasn't some kind of conspiracy. Anyways...

THE COURT: Save chicanery.

MR. HATTENBACH: Yeah.

THE COURT: It's one of the C words.

MR. HATTENBACH: So what did not happen in the -- what did not happen in that second Delaware case over those less than six weeks -- I mean, there were no hearings. There was no answer.

THE COURT: Well, let me -- while you're on 9 -- and I've lost touch just a little bit. But I think one of Mr. Lee's points is -- and I think I've got this -- is that one thing that they -- that Intel had told you they were going to do in this period though was move to consolidate, correct?

MR. HATTENBACH: Right. They filed a motion and we opposed the motion and there was no reply brief filed is my recollection.

THE COURT: So they filed a motion to consolidate before they answered?

MR. HATTENBACH: Yes. That's correct.

THE COURT: Okay. And did you all file a response to that?

MR. HATTENBACH: We did. We opposed it. And by the way so just to put this in perspective, this was a motion to consolidate a case, but in their reply brief in this case they called it sprawling and unmanageable. And their motion was to take that sprawling and unmanageable case, as they called it, and add six patents to it and now they're asking Your Honor to add eight patents to it even though it's almost an entire year

ahead, as Your Honor observed, scheduling wise from these cases. So it's just -- the notion that any justice or consolidation or efficiency could occur by doing that is very hard to fathom. I think what's much more likely to occur is frustration by Judge Connolly who already says he has enough cases or too many cases and delay and prejudice. What they really -- I mean, I'll tell you -- since we're talking about conspiracy theories today, I'll tell you this isn't a theory. This is what they told us they were going to do. They wanted to consolidate the cases and then they were going to claim there were too many patents in the cases -- in the case and then they were going to ask the Court to force us to remove patents from the case, that we couldn't pursue all the patents that we had asserted against them. They literally told me that.

THE COURT: Well, okay. Well, here is what I was going to ask since I -- with Mr. Lee. I summarized things just to make sure I'm following. Would it not be fair -- how many patents are in the current Delaware case that are going to be at the Markman?

MR. HATTENBACH: There's five.

THE COURT: Five. How many claim terms are being disputed in that case at the Markman?

MR. HATTENBACH: It's either nine or ten I think approximately.

THE COURT: And so another way of looking at what you all did, which is a different viewpoint than Mr. Lee and Intel have, is that when they told -- when Intel told you they wanted to consolidate that case and add this case that you could have been concerned that that would make that other case even more unmanageable by having whatever number that equals, 11, 12, 13, whatever, and that a reason for coming to this Court to avoid the motion to consolidate was to keep both cases more manageable by at least plaintiff, if not both parties.

MR. HATTENBACH: Well, certainly we think -- we think that coming here makes both cases more manageable, and in fact I will say the reason -- one of the main reasons we filed it as three separate cases instead of one case was because they had complained about five patents being too many and so we wanted everything by everyone's standards to be of manageable size. So that is -- I think that was probably part of the thinking, but it wasn't avoiding -- it wasn't so much of avoiding Delaware but it was finding a place that was even more sensible.

THE COURT: I'm on your side on this one. I handled a case for AT&T against IV where they sued us on 19 patents and that resulted in the case taking about a million years to -- it eventually settled, but it took a very long time on the docket. So I certainly understand that there can be a legitimate concern about making a big patent case even bigger by adding

other patents.

MR. HATTENBACH: Right. And we're in front of a judge who already says he's overwhelmed and things are unmanageable as it is.

THE COURT: Well, we all think we're overwhelmed. That's in a federal judge's DNA is to think we're all overwhelmed.

MR. HATTENBACH: All right.

THE COURT: I don't think that though. I'm happy every minute I'm sitting up here.

MR. HATTENBACH: All right. Quick aside. So you'd asked about the claims on which Intel didn't even -- didn't attempt to institute an IPR or on which an IPR wasn't instituted. So the patent I had in mind is 8020014 and the asserted claims on which IPRs were not instituted included at least '6, '10, '11, '17, '21, '22 and '23.

THE COURT: Okay. Thank you for that.

MR. HATTENBACH: So I'll try to wrap up here quickly.

THE COURT: You don't -- I'm in no hurry.

MR. HATTENBACH: Okay. I thought -- you should hear from Mr. Chu too. He has some excellent points.

THE COURT: I will hear from anyone who wants to stand up and talk. This is why this is the best job on the planet. I had great lawyers in the trial before you for a couple of days and now I'm getting to do this. I ought to pay the federal government to get to sit up here.

MR. HATTENBACH: Good job security as well, I hear.

THE COURT: They tell me that.

MR. HATTENBACH: Some of the best.

All right. So if we look at VLSI's Slide 29, this is also something that Mr. Lee glossed over but didn't really get into. As far as the benefits that would come from having all of these patents in Delaware and here put together, the best they could do in describing the overlap is to tell you they relate to semiconductor technologies. That's the overlap. Now, we're talking about a semiconductor company. Of course the claims relate to semiconductor technologies. If that was enough to allow consolidation of claims, Intel could consolidate any case ever brought against them. The reality, and Your Honor probably knows something about this, the products -- and I'll give them a compliment here. The products they make have been described as the most complicated machines ever made by mankind. They literally have more transistors in some of them than there are people on the face of planet earth. And it's all semiconductor technology, but that doesn't mean it's the same semiconductor technology. And in fact if you look at the patents individually -- and I won't put you through that today unless you really want to -- it's not.

If you turn to Slide 31 in their reply brief, they tried to do a little better. They said it's not just semiconductor technology but it's that several of the patents, not all of

them, relate to power management in integrated circuits. But here's what they told Northern California, and it's true, that every semiconductor chip includes power management features. They said you can't look at it at that level of abstraction. You have to look at the particular technology and see if there's an overlap at that level, and I would say when looking at consolidation you want to see if it's overlap at a level that will result in an overlap of technology or evidence to a substantial degree, and here the approaches that are taken to power management in the various patents are for the most part extraordinarily different and certainly different enough that there wouldn't be significant overlap in evidence in a way that would result in consolidation promoting judicial efficiency.

Slide 33 gives you a bit more of an idea into what's happened in the Delaware case in the almost extra year that it's been pending relative to this case. Here we just exchanged infringement contentions. There we've also done invalidity contentions. We've done some narrowing of the claims in prior arts. By the way, on that point let me mention because it was suggested to you that the judge's ruling -- Judge Connolly's ruling on case narrowing was extraordinarily unfavorable to VLSI and we were running away from it. There were four issues in that -- in that hearing. One was the initial narrowing sort of interim narrowing in the middle of discovery. The second was the narrowing right before trial.

So how many claims and pieces of prior art do people get to present at trial? The third had to do with how prior art was counted, whether it was individual references or combinations, and the fourth had to do with whether VLSI could add additional claims if they could demonstrate they were unique issues raised by those claims. Mr. Lee didn't tell you this for obvious reasons. VLSI won on three out of four of those issues. The only issue we didn't win on was on the interim selection during discovery of the number of claims, but obviously what matters the most is the number of claims you get to present at trial. So we ran the board on everything else. And that is not an order from which we're running in any way, shape or form. Nine months of fact discovery. 330 requests for production. Between the parties over 500 pages of interrogatory responses and four hearings at the last of which the judge said to Intel that unless they started producing documents that they were supposed to be producing he was going to sanction them. We're not running from that either, Your Honor.

Let's look at Slide 35. This is just Intel in its reply brief saying the Delaware case as it stands -- I mentioned this earlier -- is already sprawling and unmanageable. The Court was saying he thinks that essentially the number of claims that already were asserted in the case are unworkable and they're saying, well, add -- add eight more patents to it. I don't think he's going to find that any more workable.

I think, given Your Honor's admonitions at the beginning, those are the principle points that I wanted to mention. I think I'll close by just saying two key points. Clearly the trial here would be faster. The judge in Delaware is really bogged down by cases now in a way that he wasn't a year ago. And, secondly, the prospects of consolidation in Delaware are not just bleak, but it wouldn't make any sense at all, given the amount of subject matter already at issue there, the differences between that subject matter and the subject matter here and the procedural posture of that case to try and combine the cases at this stage.

Unless there are any questions, that's all I have.

THE COURT: I'm good.

Mr. Lee, I'm going to take a short break just because I need a short break. We'll resume in about ten minutes.

THE BAILIFF: All rise.

(Recess taken from 3:32 to 3:44.)

THE BAILIFF: All rise.

THE COURT: Thank you. You may be seated.

Mr. Lee, before I -- may I ask you a question before I forget it?

MR. LEE: Sure.

THE COURT: I know if you're like me, and you're a much better lawyer than me, I know whatever I'm going to say ready to go and I wouldn't remember it. So if it'd be easier for you

to go first.

MR. LEE: No. You go first, Your Honor.

THE COURT: Okay. So I understand your argument pretty well I think, but in terms of public policy, if that's what this is going to turn on, why wouldn't it be perfectly rational for a plaintiff who is in any court in America, including -- you earlier said how would I feel if it had been in my court and they went somewhere else? But let's apply actually what the reality of the patent world here. The plaintiff is in Delaware. They've got a big case against you guys in Delaware, lots of patents, lots of claims asserted. And they file -- as plaintiffs are want to do, they file another suit with even more patents. And Intel's response to that is in a very -- in a heavily burdened district, Intel's response to that is to file a motion to consolidate. Perfectly your right to do. I probably -- I would have considered doing it myself if I was representing Intel. But what is the policy argument against a plaintiff in that situation looking up and saying I don't want to have eight, six, 12 patents added to the case. I filed -- you know, I filed X number of patents in California. I -- and that's stayed. I now filed patents in Delaware, a substantial number, and I'm asserting a substantial number of claims and I know already that we're at peril of it taking a great while for our extant case to get to Markman and get to trial. We've got a new judge. I believe he's a Trump nominee. I mean, he's

with me. He's one of the new judges. So he's got, as you can imagine, a ton of new cases. Welcome to Delaware. Here's 1,000 cases, some of which start with the number 10 because they were filed in 2010. He's got that. You all know it's in a district that's pretty burdened. What is the policy argument against any plaintiff looking up and saying, wait a second. I don't want this case -- I don't even want to have the risk of my third set of patents being consolidated on what is already maybe too big a case? I want to go somewhere else. And I'm going to pick somewhere else. First I'm going to make sure that it's a legitimate place to file it. I look around, and you could have filed it in Northern California. You could have filed it in Oregon or you could file it in the Western District because, you know, that would be acceptable. And then you say, well, and gosh. There's a judge in Waco whose docket at least currently is in good shape. You know, it's growing, but it's much -- regardless, it's -- I don't know about Oregon, but this docket has to be faster than Northern District. I know for a fact from talking to the judges faster than Northern District, faster than Delaware. What is -- why is it a bad -- why would it be against any public policy, A, for a rational plaintiff to say, I'm going to get out of Delaware for this next case while I can and get to a docket that makes more sense for me getting to trial with a competent judge and, B, also policy, why wouldn't a judge in Delaware who's got as many patent cases as

he can do if he works every minute for the next 30 years, why would that district judge be unhappy that a plaintiff said I'm going to burden a different judge with some of these patents too because I've got plenty?

MR. LEE: Your Honor, it's a great question and there's an answer, and the answer is in the chronology in this case. And the second half of your question at the end is a huge part of Mr. Hattenbach's argument to you is about what Judge Connolly might have done or how he might have viewed the case. He never got a chance. Now, the answer to Your Honor's question is the public policy is --

THE COURT: Well, let me interrupt you here.

MR. LEE: Sure.

THE COURT: I'm sorry. But it seems to me -- I'm not -- I'm really not taking that into consideration about how he -- it seems to me when you guys filed the motion to consolidate, it was binary. Only two things could happen. One, it would be granted, and the other is it wouldn't be granted. I can't -- I think that's fair.

MR. LEE: Actually, Your Honor --

THE COURT: What else could he --

MR. LEE: I actually think -- and Your Honor's order in this case is the best indication. My experience over the years is when you get cases like that, either they're not consolidated at all or the likelihood is they're consolidated

for some pretrial purposes including discovery and then the Court comes back to you at that point in time and says, all right. Let's figure out what we're going to try. And that's part of --

THE COURT: But in either way -- in either -- regardless, a rational plaintiff could look and say, there is a different venue -- as long as it's a legitimate venue. I mean, you -- maybe in -- I'll pick -- maybe in Arkansas there's a division -- a district that's even faster than this one because it has less cases, but you would say, well, there's no connection to Arkansas. It can't be there. But why is it against policy for a plaintiff to say that Intel's filed a motion to consolidate. That is going to -- whatever happens, it's not going to help our case. In terms of pure procedure, leaving aside running away from an order on a motion to dismiss or any other reason, if a rational plaintiff says, we would be better off in a different legitimate district and procedurally it's okay to do it because no answer has been filed yet, what is -- what is the public policy against that?

MR. LEE: Your Honor, I -- two parts of the answer. The public policy first it's embodied in the phrase in the statute in the interest of justice. So that is the principle. Here's the policy. If Your Honor looks at Slide 12 --

THE COURT: Okay.

MR. LEE: -- in our binder.

THE COURT: Yes, sir.

MR. LEE: And this is where, and I don't know if I've been successful in convincing Your Honor, but this is what I believe which is the chronology speaks volumes. Remember this dispute between the parties has been pending since 2017. That's when the first California action was filed. If you look at Slide 12, the California action is stayed by agreement on March 1 and the Delaware action is filed on March 1. We file the motion to consolidate on March 20. Now, we've met and conferred before, but the one date that's indisputable is March 20. If the rational plaintiff was making the determination, the decision you just made, they would have moved to dismiss on March 21st. What happens instead, Your Honor? What happens instead is after March 21st there is Judge Connolly's decision on the motion for direct infringement and enhancement by willfulness. What happens after that is our telling them we're going to move to dismiss those same claims in the Delaware 2 action. What happens after that is a hearing on April 3rd. So --

THE COURT: But if I understand opposing counsel, they weren't concerned about the threat of the motion to dismiss because they had addressed the reasons that the Court had given for -- to the extent it had granted the motion to dismiss, they had already addressed in the current -- and I am pretty familiar with what they've done because I am pretty up to speed on y'all's motion to dismiss as well.

MR. LEE: Your Honor, there are some words missing, but if the person who could have decided whether they had done something that would cure the problems for the first was Judge Connolly because he decided the first, and if the question is is there enough to reach a different decision, he could have done that. It's not to say Your Honor can't do that, and we know Your Honor has entered some orders on cases that are similar but different, but, Your Honor, if I take your hypothetical, that rational actor either would never have filed in Delaware because by March 1st the question of what Judge Connolly's docket looked like was well-known, and I have a good seven or eight other cases before him. They were all known. They had trial dates actually going off into the latter part of this year. Certainly by March 20th when we told -- when we filed the motion to consolidate, if what they wanted to do was just what you said, rather than oppose, they would have dismissed and filed here in Waco.

Your Honor, at the outset you asked them to focus not so much on the private and public factors because we have conceded some are, you know, a challenge for us here. We can argue about whether the others are neutral or not, but you asked him to address the forum shopping, and the answer to Your Honor's question is they forum shopped here. And the idea, honestly, that on April 3rd they ran the table before Judge Connolly and then eight days later all of a sudden the second case gets

dismissed is just not credible. So the answer to Your Honor's question is if they had not filed the second case in Delaware and filed it here, the transfer motion would be very, very different. If we had moved to consolidate and their response had been on that day to move to dismiss and file before Your Honor, I think that could fall within Your Honor's hypothetical, but you can't -- I don't think we can fairly ignore everything that happens in March and April, and the only explanation, the only explanation Your Honor got is that Mr. Hattenbach, who accepted responsibility, didn't know of Your Honor's expertise and your docket until April.

THE COURT: Does it make a difference in my analysis that the Delaware court had, as best I can tell, done literally nothing on this case on these patents?

MR. LEE: No, Your Honor. The answer -- the fair answer is it's not dispositive in either direction, but I think that's not a fair characterization. The -- first the parties are the same. The accused products overlap substantially the same. The damages analysis is going to be very much the same.

THE COURT: Well, the district court hasn't done anything with regard to the damages.

MR. LEE: Actually, the California court had.

THE COURT: I understand, but I'm saying the Delaware --

MR. LEE: Other than require us to answer contentions, and one of the issues that has arisen there is the adequacy of

their damages answer to an interrogatory. I don't think Your Honor -- we don't need to get into it with Your Honor here, but there's been a disagreement is the best way to put it.

Your Honor, the question of whether there were efficiencies to be gained by -- as Your Honor has with these three cases consolidating for pretrial purposes is a decision that either could have been made by Judge Connolly. I don't disagree with you that they could have filed here originally and it would look different. I think if they had filed on March 21st after we moved to consolidate, I think we'd still be having the argument before Your Honor, but I think what they're asking Your Honor to do is based upon the representation that they were unaware of Your Honor's expertise and docket is to ignore what happened on March 20th, 26th, 30th and April 3rd. And the answer, Your Honor, at the end, one of the very first things Mr. Hattenbach cited for Your Honor is a slide, their Slide 5, which talks about lawfully engaging in forum shopping. That was the phrase. It's lawfully engaging in forum shopping. Now, what our cases at Slide 22 and 26 show is there is unlawful forum shopping, and what we have here is -- and I'm not going to characterize it as legal or illegal. What we have here is forum shopping without an explanation because of events, and the only explanations, Your Honor, is, well, Judge Connolly is over burdened, but when he asked about the motion to consolidate, he didn't say he was overburdened. They -- the

quote they gave you about the case being too sprawling was his admonition of them that they needed to narrow their case. That's where that phrase came from. And when he asked about the motion to consolidate, I think he was doing what most new or experienced district court judges would do is to figure out whether there's some efficiencies to be gained.

THE COURT: I want to go back -- what I care about is as a policy matter. And I will spot you your concern about forum shopping. But I'm saying as a policy matter when you have a situation where a party before the district court -- a party that has a case filed in a court like Delaware that has an extremely heavy -- I think they're number one still. They'll always be number one in terms of the most cases. If a party moves to dismiss a case that is on the heaviest docket in America and elects to move it to another docket that's legitimate where they could have filed it to begin with without much chance of it being argued it didn't belong there under the Supreme Court stuff. As a policy matter, how is that not something I should also consider as a benefit to the system in the same way if they'd filed it originally in Marshall and said, wow. There's a better -- by better there's a faster option by going to the Western District instead of the Eastern District?

MR. LEE: And, Your Honor, the answer to that question which is in the cases we cited, Your Honor, is I think what the

cases suggested is Your Honor has to say in the interest of justice what's the answer to the question of why did this happen?

THE COURT: They wanted to get to trial faster.

MR. LEE: Your Honor, if that were true, we would have been filed here on March 1st. If that were true, we would have been filed here on March 21st.

THE COURT: Okay.

MR. LEE: And that's why the chronology speaks volumes, and I think if I take Your Honor's hypothetical in the most general sense, within that hypothetical there are circumstances where it would be an interest of justice.

THE COURT: But actually, Mr. Lee, it's not really that much of a hypothetical. It's -- I mean, it's what happened here.

MR. LEE: I guess, Your Honor, where I would respectfully disagree is that's not what happened here. What happened here is not -- they didn't decide -- I knew about Your Honor's appointment in September. We knew about the Waco docket seven months ago. On March 1st of this year we knew about Your Honor's docket and Your Honor's appointment and we knew about the cases coming here. On that day they could have filed here and my transfer motion would have been even more an uphill battle than it might be now. On March 21st I sure as shooting knew about Your Honor's docket and Your Honor's appointment.

We said we're going to move to consolidate. Did anybody suggest we should come here? No. What happened between March 21st and April 8th? And what the cases say is in the interest of justice it's important for the Court at least to ask the question why, and if the answer that Your Honor reaches is it's just a rational plaintiff exercising their reasonable rights just like the forum, then that's a problem for us. If the answer is, if I look at what happened from March 1st to April 8th and I look at it in the context of what happened in California and Delaware, this is forum shopping and that's what's described in the cases at 22 and 26. And, Your Honor, there's even the case where someone filed it in East Texas, decided to come to a different division of Texas and they said, no. No. No. You can't do that. That's the key. And when I say to Your Honor it's not -- we know you have an awful lot and a lot of cases before you. When we say it's different, I know everybody comes and says our case is different. What makes this different is there are a set of occurrences. And you don't have to believe me if I say they didn't run the table. You don't have to believe Mr. Hattenbach when he says he ran the table. All you have to do is look at the events that occur in what order over 45 days and that will answer your question.

THE COURT: Okay. And I need to thank you. I told the counsel yesterday when they were arguing with me about something that they should always start it off by saying the

word "respectfully" which you just did. When you're about to tell me that I'm wrong, you should -- I corrected -- yesterday they were telling me I was wrong and I said you should start with -- by saying respectfully like that. That was a great lesson for everyone in the room. That's the way to tell a judge he's wrong by starting with the word "respectfully" and then doing a great job of it. So...

MR. LEE: And mine wasn't to tell you you were wrong, just I disagreed. That's all.

THE COURT: I understand. Thank you very much, Mr. Lee. Counsel?

MR. HATTENBACH: May I respond briefly?

THE COURT: Of course. Take all the time you need.

MR. HATTENBACH: I'll keep it short. And I've been asked to speak more slowly so I'll do my best. I've had a little caffeine this morning.

THE COURT: If it was by my reporter, I get told the same thing. So...

MR. HATTENBACH: That makes me feel better.

Okay. Just a few points. It was alleged that we were suggesting that sprawling and unmanageable quote came from the Court and that we were not quoting Intel. We were quoting their reply brief at Page 2, the penultimate bullet in the list on that page and they repeated the phrase in their own language on Slide 12 of Mr. Lee's deck to which I would like to turn

next.

THE COURT: I'm there.

MR. HATTENBACH: Okay. I'm going to guess Your Honor is familiar with Occam's razor, --

THE COURT: I am.

MR. HATTENBACH: -- the notion that sometimes the simpler explanation is the correct one. You don't need to go through 13 slides setting up this conspiracy theory to know what happened here because I've already told you and I will tell you again and I am happy to tell you under oath. Maybe news of this Court and Your Honor's experience made it to Boston faster than Los Angeles or to my office, but I wasn't aware of it until the second half of March, which is what I said earlier, not what Mr. Lee just said which was until April. It related to a particular discussion I had with someone, and I don't think it's necessary to get into the details, but I could pin it down to an exact day.

What happened within the two weeks following that discussion was that we completed a prefiling investigation on two additional patents that weren't at issue in Delaware. We prepared new complaints. We divided the patents up into cases that we thought were not just bite sized but related in terms of subject matter so that it would actually make sense to present them to a jury independently. We hired local counsel. We dismissed the case in Delaware and we filed the case the

same day, because if we hadn't done that, we were under the expectation that they would file a declaratory judgment somewhere like California where things would be extraordinarily slow. So that's what happened in that two week period. It wasn't tied to rulings, bad or good, in Delaware. That's the end of the story. It doesn't require looking at 13 slides to figure out what happened.

And if you have any questions about that, I'm happy to answer them.

Two more -- actually, I'll just make one more point which is earlier today Mr. Lee was saying again that there's no one at Intel's Austin premises that knows about the technology, and it was pointed out to me, and I didn't mention this earlier, in Mr. Herrgott's declaration, this is Intel's own declaration at Page 10 he says, two of the inventors on the patents in suit are employed by Intel now. Intel went out and hired VLSI's inventors and they're working for Intel in Austin. So the notion that the inventors of the patents in suit don't know anything about the technology at issue in this case is one that's very difficult for me to understand.

Thank you.

THE COURT: Yes, sir.

MR. LEE: Your Honor, I think what I precisely said was that the people who design and develop the accused features and products were not in Austin.

THE COURT: I understood that too.

Now we have the motion to dismiss. If you'd like to take that up.

MR. LEE: Our motion again, Your Honor, so I'll go first. We have a separate set of slides.

So, Your Honor, I'll try to move through this a little bit more quickly than we moved through the transfer motion because we're aware of the opinion Your Honor issued I think yesterday or the day before that addressed, as I said, some similar issues in the area of direct infringement, indirect infringement, and I thought what might be most useful is if we point out what we think are the differences between the issues Your Honor addressed.

THE COURT: Okay.

MR. LEE: Because I think we agree with you and I'm not sure we disagree terribly with VLSI on what the law is.

So as Your Honor knows, if I turn to Slide 2, there are the eight patents asserted, and the focus here is just on one of the patents. And this is not an effort to just fire off a shotgun at their eight patents. This is an effort to peel the onion back I think is what we'll try to do because my bet is that by the time they come to trial before Your Honor or wherever there's going to be fewer than eight patents that are probably left to be tried. So if we take the Iqbal Twombly standard and apply it to the '373 patent, that's the source of

our argument.

Let me just make one comment on the law very briefly. VLSI cites a case called In Re Bill of Lading to Your Honor to suggest that their allegations are sufficient and this sort of pervades much of the motion to dismiss. That was a case that was before the federal rules of procedure were amended and Form 18 was abandoned.

THE COURT: Well, Mr. Lee, you may or may not know this. For reasons I have absolutely no idea, I actually wrote a long article on the amendment of that rule and what needed to be pled under in there. So I'm actually -- this is probably the only area of law I actually know anything about because I had to write a paper and I couldn't find an associate to do it so I had to do it myself. So I'm pretty up to speed on what needs to be pled in a patent case.

MR. LEE: And, Your Honor, with that backdrop, let me just move quickly the '373 patent.

THE COURT: I keep trying to find that article so I can put a footnote to it in one of my orders, but I haven't cared enough to do it to actually find it. So maybe I'll have a law clerk find my article on the amended rule -- on the amended pleading requirements.

MR. LEE: If I turn you to Slide 4, Your Honor, the patent concerns minimum memory of operating voltage techniques. Most importantly for our purposes today, if I turn you to Slide 5,

the only asserted claim is Claim 16, and this really is simply a question of whether the allegations of the complaint are inconsistent with what the claim says on its face and that's the only reason that we're moving, unlike Your Honor's decision of a couple days ago where there were arguably sufficient allegations to support the limitation. Here what we're saying is they're simply inconsistent and there are really two important points. The claim itself says you're going to provide a first voltage some of the time and you're going to provide a second voltage some of the time. It doesn't matter actually what a voltage is. Doesn't matter what the times are. The claim says you provide first regulated voltage some of the time and you provide a second regulated voltage other times. But the complaint says you always provide the second voltage.

THE COURT: Okay.

MR. LEE: It can't be the same. They're just simply inconsistent. And we were looking at the infringement contentions to see if the allegation would be different. I don't think they are. They may say they are, but they didn't seem different to me.

The second inconsistency is from Paragraph 57 of the complaint. It's on Slide 7. And the claim limitation says the second regulated voltage is greater than the first regulated voltage. But then the complaint says that they're the same. Right? If you put together Paragraph 56 and 57 which is the

second voltage is always being supplied and they could be the same, you can't satisfy the limitation of the claim.

THE COURT: Got it.

MR. LEE: And it's just an inconsistency.

The other argument that we've made to Your Honor is more just a classic Iqbal Twombly argument which is that the claim requires testing. You have to do more than just say the words. What they do is say the words. They make an argument to Your Honor about Paragraph 47 in a reference to a chart, but there's no tie other than attorney argument and not even an allegation saying that that's what's at issue. So this, Your Honor, is a very narrow and specific motion. It's basically one that says without any claim construction, without any need for technology tutorial, the claims require two things. They need to be different. The complaint says that they're either the same or that one's always supplied. It can't be both. And that's why we've moved on this patent.

If I move to the indirect infringement allegations, to maintain -- and I'm going to do this very quickly, but to maintain the claim, they have to show we either knew or we were willfully blind.

THE COURT: Right.

MR. LEE: And they have to show we knew or were willfully blind to the patents and the acts of infringement.

THE COURT: Right.

MR. LEE: There is, I think as Your Honor knows, if I turn to the first requirement, knew of other patents or were willfully blind -- if I turn Your Honor to Slide 11, there's no allegation that we knew of the patents before the suits were filed. So the six Delaware patents -- the six patents that were in the Delaware case before the Delaware action was filed, the latter two that Mr. Hattenbach referred to when this case was filed. I don't think there's any real disagreement. There is an argument made to Your Honor that, well, some of Intel's employees are actually named as inventors on these patents; therefore, Intel knew about them. That knowledge of that individual about that patent is not something that's imputed to Intel as actual notice. And that's what the cases that are cited on Slide 12 say. It's a commonsensical resolution. If you have 17,000 employees, the fact that I know about it but the people making decisions don't is not enough to impute knowledge.

So since -- because there's no actual notice, the focus before Your Honor has been on willful blindness. And again the law's pretty clear. You have to subjectively believe that there's a high probability that the patents exist and you have to take deliberate actions to avoid learning about the patents.

I think, Your Honor, one way to view this is this: They're relying upon willful blindness for both knowledge of the patents or notice on the patents and notice of infringement

for both. So if you take those two and put them together, they're saying there was a subjectively -- we had a subjective belief that there was a high probability the patents existed but we took steps to avoid learning about them but yet we had a subjectively -- there was a subjective belief that there was a high probability that we infringed the patents and took steps to avoid that. It's very hard to put those four things together and have them hang together, and there's a reason why. If I take you to Slide 14, the only basis for willfull blindness, and I think this distinguishes Your Honor's order of a couple days ago. I think I have it correctly. In Your Honor's order of a couple days ago there was actually a notice letter sent that says you have a problem under these patents. I think it was sent twice in consecutive orders.

THE COURT: That made the lack of notice a little tougher.

MR. LEE: Yeah. I wouldn't be arguing it if I was stuck with those facts.

Here there's nothing like that. So what's the basis of the willful blindness? It is that Intel knew about other NXP patents or Intel knew of other patents that the inventors of these patents were inventors on. So it's basically an argument with that from this large NXP portfolio you know of some other patents you've been accused of infringing or you knew that these inventors were also inventors on other patents and that's enough for a subjective belief that there's a high probability

that the patents in suit existed, and we would suggest that's not enough. Even if it were, the question is, what's the deliberate action we took to avoid learning of these patents? And if I turn Your Honor to Slide 16, the focus is on Intel's corporate policy basically encouraging their engineers not to consult patents of others when they're designing products, and it's got a very commonsensical reason which is if you don't consult the patent, it's pretty -- it's much easier to say we didn't copy.

THE COURT: Right.

MR. LEE: Right. And we --

THE COURT: And you're not going to end up with inequitable conduct.

MR. LEE: Right. And it's hard to say you copied. It's easier to say you independently developed.

As a consequence, if I turn you to Slide 17, the courts have looked at policies like this and said, no. That's not enough to satisfy the willful blindness. But even if they could show willful blindness to the existence of these patents -- and, Your Honor, remember these are NXP patents that didn't even make it into the hands of VLSI until like the last, in some cases, 12 months or so. The idea that we should know about them and we were willfully blind to them where they're moving around these corporate entities is a little bit not commonsensical.

But even if you could satisfy the willful blindness as to knowledge, you'd have to satisfy willful blindness as to infringement as well. It's both. And this is where -- not to leave us at the argument we spent most of our time on today -- if I take Your Honor to Slide 19, this is where Judge Connolly addressed the indirect infringement claims. Now, there and here we're focused on the presuit indirect infringement claims, and what he says is, VLSI never alleges that Intel had been willfully blind to the infringement of those patents.

Now, the question Your Honor asked me was, well, they say that they've added allegations. Isn't that enough? I think there are two answers. One is, no. What they've added is just conclusions for Your Honor on the presuit infringement. There's really nothing there substantively, but just for a minute reverting to the earlier motion, the person who could have decided whether it was enough additional would have been Judge Connolly, and that's what we're going to ask him to do.

Setting aside that, the question of whether additional words are enough, the additional words are a conclusion and not much more, and if you look at Slide 20, the cases have reached the commonsensical result that that's not enough. And really what VLSI does is it argues the same thing. It sort of does a rephrase which says, well, we accused you of infringing some NXP patents, therefore, you should know that you infringed all NXP patents, but that doesn't make any sense at all.

There were accusations that Intel infringed other patents naming the same inventors, but they named some of the same inventors in many others. All of willful blindness is focused on the patents in issue.

THE COURT: Right.

MR. LEE: Right?

What you know about other things doesn't make a difference.

And then lastly, Your Honor, the question of enhancement -- and I hope in our prayer for relief in the motion I think we are hopefully specific in the request. For the indirect infringement claims we are seeking dismissal of the presuit allegations because that's the place where there's no notice. There's no willful blindness. There's no knowledge of infringement.

For enhancement their allegation is enhancement based upon willfulness, and that is an allegation that has a meeting post Halo, and what it says is you need to allege sufficiently egregious conduct that it rises to the level of piracy, copying, that sort of thing. There are no allegations here and they don't really say that there are. And the consequence of this in order to basically take sprawling cases, if that's what Your Honor has before you now, and bring them down to a level where they can be litigated, if you go to Slide 24, the question is this: If you look at the allegations of their

complaint, have they alleged basically what you would see in a garden variety patent case, or have they described conduct that is sufficiently egregious based upon willfulness that they should be able to pursue the enhancement claim? And there have been multiple cases throughout the country but in the Texas district courts which has said, no. Halo really meant something, and now that Halo's there, if you don't have facts to allege that demonstrate that egregious conduct, the claim should be dismissed.

Thank you, Your Honor.

THE COURT: Let's assume for a second I grant the motion to dismiss without prejudice of course.

MR. LEE: Right.

THE COURT: And once discovery begins in this case, if I retain it, the plaintiff wants to send you discovery that would establish knowledge or the elements that would allow them to plead both the indirect infringement and/or the claim for enhanced damages, is Intel going to say, sorry. You haven't pled it so it's not relevant and we're not going to allow it to take place?

MR. LEE: Your Honor, the answer is no. I mean, if the claims are dismissed because the allegations are insufficient but they seek discovery, for instance, on when we knew about the patents, what we knew about infringement, they're going to be seeking discovery on whether our conduct was egregious to

some nature. They're seeking all the engineers, all the documents. We're not going to -- we're not going to do that.

THE COURT: And at what point in the case, assuming that the plaintiff were diligent -- now remembering if I keep the case there won't be any discovery taking place until after the Markman. It'll happen very quickly after the Markman because we'll get a decision out very quickly. God. I sound like President Trump. You know, it'll be the best decision ever.

But -- and let's assume Markman is on X date. Discovery begins when it can begin. At what point -- how long, in your opinion, does the plaintiff have an opportunity without objection from Intel to amend its complaint to add these elements back in if they were to establish -- you know, not prove it but just say, based on these -- now that we have this discovery, we want to add one or both of these issues?

MR. LEE: And, Your Honor, could I answer it in two parts?

THE COURT: However you want.

MR. LEE: I think that as a matter of time, the -- they ought to move promptly after they get the information.

THE COURT: Sure.

MR. LEE: So if they get it in the first two weeks of discovery, they ought to move relatively promptly and be able to let us know that they're going to move relatively promptly.

(Conference between Mr. Lee and Mr. Ravel.)

THE COURT: Mr. Ravel isn't just a pretty face. He

actually knows what's going on.

MR. LEE: Why don't you just -- you go ahead.

THE COURT: Mr. Ravel, go ahead.

MR. LEE: Yeah. Go ahead.

MR. RAVEL: An idea that we had in that regard, Judge, is the pleading amendment deadline that's sometime into fact discovery would be an appropriate time and one we would stick by.

THE COURT: Okay. Very good.

MR. LEE: And, Your Honor, the only reason I was giving you the answer in two parts is assuming they timely move, we would not oppose on the basis it was untimely. We might, for instance, under Section 284 we might still challenge whether the amendment was futile.

THE COURT: Oh, absolutely. Sure. But let me hear from the plaintiff.

MR. LEE: Thank you, Your Honor.

THE COURT: Mr. Chu, what a pleasure to have you here.

MR. CHU: Thank you, Your Honor.

You have slides on our opposition, but let me start without the slides. One of the arguments has to do with direct infringement, and the position of Intel is that for Claim 16 of the '373 patent the allegations of direct infringement are insufficient. That claim is a method claim with eight limitations. Part of the claim language involves just plain

vanilla stuff, a processor, a processor with memory. There are seven detailed pages in the complaint going through each of the limitations and providing clear, direct allegations of direct infringement.

So let me give you one example. And this is an example that Intel points to in their brief. They say, well, we're not on notice under current pleadings standards with respect to testing. Testing is mentioned in one of the limitations. Well, there is a direct allegation that Intel's involved in testing, exactly what they're testing, that they're storing it in a particular kind of memory, a nonvolatile memory. That alone would be sufficient. What more do you need? Suppose the claim says a temperature is taken. Does someone have to say it's a thermometer under the tongue, a little device put into a child's ear or something else? No. So the paragraph on testing by itself is sufficient.

The very next paragraph says, for example, here is evidence we know about on testing, and there's a graph that was created by Intel I believe in the public domain now and it has data points, seven different data points, and in the Intel reply brief they attack that allegation by saying, well, that's still not enough because they don't really explain how that screen shot applies as if we have to say what's already on the screen shot, what's on the X axis? What's on the Y axis? What are each of the seven data points? That's apparent, evident,

and it's also apparent and evident for one of the accused processors called out by name Ivy bridge. So the more generalized allegation is enough. The for example is not required by any case that I know of in any district at any time. We gave them more and we gave them more than that by showing them their own screen shot, and there are other examples along the same line.

I'm going to leave the arguments about direct infringement.

THE COURT: Yes, sir.

MR. CHU: The arguments about indirect infringement and willful infringement. There are a variety of different elements, but almost all the arguments are trained on whether or not there is sufficient allegations of knowledge. Well, there's a great big point not addressed today. They obviously have knowledge of the exact patents at issue since the filing. They obviously from all the other allegations have knowledge about the other elements for inducement, contributory and the like, since filing.

THE COURT: I didn't take it that there was a complaint of this -- with regard to this since filing.

MR. LEE: No. The brief in the motion it's for presuit.

MR. CHU: Okay.

THE COURT: That was the way -- right. I mean, I -- yeah.

MR. CHU: So what I'm saying is that allegations,

including willful infringement post filing, should remain in the case.

Now I'm going to go to prefiling.

THE COURT: I don't think they disagree with that.

MR. CHU: Okay. I just wanted to know that we're all together.

THE COURT: Yeah. We're all together.

MR. CHU: So let's think about it in terms of prefiling. All the arguments this afternoon and the great bulk of their arguments in their brief they take one little factoid. They find a case that kind of stands for the proposition that that little factoid standing alone is not enough. But here's what the law is.

THE COURT: Mr. Chu, let me ask you this because this is what I asked Mr. Lee. What prejudice is there to you and your client of me dismissing presuit only the indirect claims and the claims for enhanced damages without prejudice with the understanding, as Mr. Ravel pointed out that in this Court when we -- we spent a lot of time -- it doesn't matter what we did, but we kind of took these kind of issues into consideration as we spent a lot of time coming up with the scheduling order, and part of the reason we put in the deadline that we put in was I get this tension of you guys feel -- plaintiff feels like they need to put everything in there or the defense is going to say, oh, we didn't have notice so you can't add it and defendant's

unhappy because you're saying you're accusing us of enhanced damages and we didn't even know about it. What prejudice is there to you if I were to dismiss those claims without prejudice clearly only until you're given an opportunity in this case and under my scheduling order you don't get to do discovery until after the Markman. Once the Markman is completed and the order is -- and I give you the constructions, then you could immediately take discovery on these issues, 30(b)(6), whatever you needed to do, and if you complied with the intermediate pleading deadline, I can tell you I would allow these claims in for presuit -- for the presuit allegations. I can't figure out where there's prejudice to you, but maybe I'm just missing it.

MR. CHU: There are eight different patents in the three suits.

THE COURT: Okay.

MR. CHU: There's a real practical issue of timing. Let's say within three weeks we have sufficient evidence with the first patent but it takes more time to get it for the second patent and more time for the third patent, more time for the fifth patent and so forth.

THE COURT: Well, let me interrupt you for just a second.

MR. CHU: Yes.

THE COURT: Mr. Ravel, remind me how long after the Markman is the deadline to amend the pleadings?

MR. RAVEL: In our proposal which is a little richer than theirs, it's about four months.

THE COURT: So you would have four months to -- there would be -- you'd have four months to complete discovery and move to amend.

Hopefully he passed you a note so that's a good deal. You ought to take it, but I'm not sure what he's...

(Laughter.)

THE COURT: I mean, I'm very sympathetic to you all not wanting to give up your claim, but if I leave them in, you're still going to have to do discovery to prove them up, and it seems to me that this is just a different way of skinning the cat. Intel's happy because they don't have what they feel are unfounded claims currently pending against them. You're not prejudiced because if -- if you can do the -- once you do the discovery you want to add them in, I can assure you I'm going to be generous in allowing you to add them in. So help me out here.

MR. CHU: Okay. So let me -- first, a small technical matter.

THE COURT: Yes, sir.

MR. CHU: Six of the eight patents they were put on notice earlier in the Delaware action so there was presuit here, small matter, to add to this. So what I was starting to explain was the timing issue.

THE COURT: Okay.

MR. CHU: Whether it's four months, there's some competing proposals. Whether it's four months or some other period of time. They will make an argument, I believe, that we should have come forward earlier if we got sufficient evidence at an earlier point in time.

THE COURT: I can tell you without any fear of contradiction that that would not be a wise thing after having moved to have these claims dismissed at this time to then argue you should have done it sooner. I'm -- they've asked them to be removed. I understand why they want them to be removed without prejudice, and again I'm trying to paint a map for you here that I'm going to be very generous. I want to have as much equity between the parties as possible. I'm going -- whatever it takes you to get this information, if I feel that it's reasonable in the manner that you did it to get it, I'm going to allow you to add those claims in. With respect to the defendants, for example, if the defendants have problems on some of these and they can't get you the discovery that you need until three months and three weeks after the Markman, well, then I don't expect Mr. Ravel to allow the great firm of Wilmer Cutler to argue that you're cut off. And so that wouldn't be wise, and I'm sure they wouldn't even ask them to do that. And so I'm trying to paint you a picture here that I've done all this stuff, and as long as you all come back in

here -- you all, that being a collective -- and show me that you acted promptly in trying to obtain the discovery as soon as Intel was reasonably able to get you the discovery because, you know, you're going to have to set up those depositions and all that stuff too. As soon as -- and I don't want you all to be going, well, we've got to -- you know, it's not the most important part of your case is proving this up. And so what I'm saying is I'm going to dismiss without prejudice these claims, the claims of indirect infringement and the claim for enhanced damages without prejudice. I want it to be as clear as possible that if plaintiff acts promptly and reasonably to obtain information to be able to fully articulate -- I'm not saying you've got to write a book, but I'm saying as long as you are able to have a Rule 11 basis to file the claims and you do so relatively quickly after Intel gets them to you -- and they may not be able to get you that stuff for six months. I mean, I don't know how busy Intel is, but we -- there's going to be a rule of reasonableness that is going to be favorable to the plaintiff in being allowed to add these claims back in with Intel having asked me to take them out.

MR. CHU: So let me answer directly the question that you've asked.

THE COURT: Okay.

MR. CHU: It's a fair question. And then I want to in general talk about the question of prejudice and then with Your

Honor's permission talk about the state of the pleadings and the law that should be applied.

THE COURT: Okay.

MR. CHU: So, first, Intel's position is that only of Intel. So let me give you an example of facts that would support willfull infringement knowledge of the patent before the filing in Delaware or the actions before Your Honor.

Freescale, which was the owner of some of the patents, went to Intel and said, as we understand it, we would like to discuss with you taking a license to the portfolio. So we subpoena, let's say it's Freescale or maybe individuals who no longer work for Freescale. Their counsel will be free to stay, you don't have any allegations in your complaint. We're not going to answer that.

NXP at some point in time became owner of the patents. Same thing. We go to NXP. They of course don't want to get involved in a litigation where they're not directly involved. From their point of view it's just not a good investment of their time and they take the same position. It's not a farfetched position. They're not before Your Honor. They're not in this hearing. They can say there are no allegations.

And it goes on and on. There will be other former employees of Intel or other individuals who were never employed by Intel and we will have those discovery battles lumped one on top of the other.

Second point on prejudice. Since we have allegations of willful infringement post filing of the complaints, I don't see much prejudice to Intel. It's not as if the Intel board of directors or the shareholders of Intel will say, oh, my goodness. We're so embarrassed by these allegations of presuit filing of willful infringement as opposed to the kinds of prejudice that I've mentioned, Your Honor, that we, VLSI, will find when we're trying to take discovery of non parties.

And the third issue that I mentioned that I wanted to get to is, what is the law? So the Intel argument has been basically here is a particular factual allegation and then they point to summaries saying that's not enough, but here's what the law is that controls. The law is not to look at individual factual allegations. It's to look at all of the allegations as a whole taken together. And that in fact is the decision in SoftView vs. Apple a decision by Judge Stark in Delaware. That in fact is the decision in Sovereign vs. Microsoft, an Eastern District of Texas decision. And so you're trying to look at all the facts together, not individual facts, and to be able, as we believe Intel is trying to do, to nitpick them apart.

So there's knowledge which includes willful blindness. Let me focus on willful blindness. First, we have the situation where Intel has a stated policy, we don't want our people looking at patents. This is a policy of an ostrich sticking its head in the ground.

Second, Intel's chief architect for many years, as we have alleged, has stated the reason for Intel's policy is we just want to have a defense against treble damages, and that's exactly why we have this policy. So it's not just in general willful blindness. It's willful blindness specifically with respect to patent cases and the possibility of treble damages. So we add to that -- so it's not just willful ostrich like behavior in the abstract. We add to that a series of other facts. As an example, they hired named inventors on the patents in suit. What's the law about that? In the Abstract case, Abstract vs. Dell the Court said, if you're hiring an employee from another company who knows about the patents, and obviously the named inventors know about their own patents, that's sufficient for knowledge.

In NASDAQ vs. IEX, the Court is looking at the fact that IEX, the defendant, hired certain employees. I think it was four employees. And they had knowledge of the patents and in that case the Court said that is sufficient. That's NASDAQ vs. IEX. The first case, Abstract vs. Dell.

What about notice not of a specific individual patent but notice about a portfolio? That exact situation came up in the Raytheon case, and the Court in the Raytheon case said, if you have knowledge in general about the portfolio, that's sufficient, and we allege here that there is such knowledge because Freescale went to Intel and said, we want to license

our portfolio to you and that includes the patents here.

There are other facts too. There were NXP patents that were asserted against Intel. Intel was involved in the litigation with respect to working on claim charts about those patents, not necessarily the specific patents here but part of the portfolio that is relevant. So they knew about those patents. They knew about other NXP patents in addition to those being asserted against them, and NXP isn't some random patent donor. So here's another fact. They are competitors. Intel knows that NXP is a competitor. These are some of the complex of facts taken together.

Now maybe I'm going to go to a slide just to summarize this. If you go to Slide No. 15, it says, the allegations should be taken in combination. It cites the SoftView case, but I've already told you about the Sovereign vs. Microsoft case from the Eastern District of Texas.

And if you look at the next Slide 16, we see Intel's ostrich policy. Knowledge from the filing of suit, explicit pleading of knowledge, previous lawsuits involving the same inventors, Intel's prior notice of the competitor's portfolio, previous lawsuits involving the same NXP portfolio, Intel instructing its customers with guides on infringing usage. Of course they know what acts they're telling their customers to do and how to practice the method from their own guides. So they obviously have both knowledge, and this would fit a number

of the requirements for indirect infringement, and then of course Intel's hiring of the inventors in suit. So that's Slide 16. It is a mere summary of some of the facts taken together under the SoftView decision, under the Sovereign decision is sufficient for purposes of pleading in a context where the prejudice to Intel will be modest, if at all, but the prejudice in discovery to VLSI in fighting multiple discovery battles with non parties will be significant.

Thank you.

THE COURT: Mr. Lee?

MR. LEE: Let me just make three points. I think that Your Honor's proposal or suggestion on how to deal with it makes sense to Intel. We hear Your Honor's admonition about what's expected of us during discovery, and I think that at some point in time you may be asked to decide whether this would be sufficient when there are facts to support it, but there's nothing today. And the one interesting thing about this Slide 16 is for everything that's on the puzzle, there's nothing about the patents in suit or the infringement of the patents in suit. Not a thing at all. And there's a reason because there's no allegation of such.

Second point, Your Honor, is on the '373 patent. I'll just point out that Mr. Chu didn't address the contradictions. He addressed only the testing limitation.

And then lastly, Your Honor, to answer the question you

asked earlier today about the IPRs in California and the claims, whether all of the claims were subject to IPRs, there are some claims that Mr. Hattenbach identified of the '014 patent that were not subject to the IPRs. I think, and we'll confirm and correct if we need to, that's because we did not seek an IPR on those claims.

THE COURT: Thank you, sir.

MR. LEE: Thank you, Your Honor.

MR. CHU: Both our papers as well as that single summary slide refer to facts that have been alleged that relate to specific patents in suit before the filing of the Delaware suit or the filing of the suits here. So we plainly allege that Intel hired as employees named inventors of the patents in suit. I've already made mention of the Abstract case and the NASDAQ case saying that's sufficient by itself.

The '373 patent which we were discussing earlier, one of the named inventors was hired by Intel. The '522 patent, the '187 patent and the '357 patents, all of those patents in suit before Your Honor, Intel hired named inventors of those patents. They plainly had actual knowledge under existing case law and Intel has continued since the date of first knowledge, since the date of the suits to continue to engage in practicing infringing acts. They haven't come forward with an opinion. We think that that conduct is egregious and we alleged egregious conduct. Under existing law these allegations are

more than sufficient to maintain willfulness as well as indirect infringement before the date the suits were filed.

Thank you.

THE COURT: Okay. Let me just throw out a random question that if you say -- my guess is both of you have dealt with this a million times that I'm curious about. Will there be any issue -- I remember having a case from Microsoft where the inventor of one of the patents we were being sued on had moved from Bell labs who was suing us to Microsoft and I remember there being issues with respect to what the inventor could and couldn't say in terms of certainly I think with regard to invalidity perhaps. Are those -- are we going to have issues that we need to be prepared for in this case about that, or am I just imagining this?

MR. CHU: It's a great question. I've had this occur a lot of times. So it's not uncommon of course for a semiconductor engineer that was working at Freescale or NXP and maybe Intel and then has moved on to another semiconductor company. Maybe it's Quallcomm. Maybe Apple has become a semiconductor company and it goes on and on. And what does their new employer say to the employee? When we contact the employee, we'd like to interview you. If necessary we'll take your deposition. For some reason there is this tried and true path where the new employer tells the employee not to cooperate because they're concerned the patents might be asserted against

them as an example. So it's a big issue and it's not just the sole former employee that might hire a lawyer to fight the discovery. It's the new employer that usually fights the discovery and fights hard.

THE COURT: Okay. We don't need to take up a lot. I just -- it's something I want to be proactively letting you know I have some familiarity so if there's an issue with this in discovery down the road.

MR. LEE: Yeah. I actually took Your Honor's question differently. There is a doctorate called assignor estoppel I think is what you're thinking of from the Microsoft case where if I assign -- I'm an employee and I assign the patent, then I go off -- I assign it to you. I go off and --

THE COURT: That's right. And then I want -- I have a new patent and it would help me to -- that's what I'm thinking of.

MR. LEE: You then sue me. I can't say, no. That patent's invalid because I assigned it to you. There's no assignor estoppel issue in this case. That's the issue.

THE COURT: And if for some reason we have an issue with respect to any discovery issues that Mr. Chu may have foretold, we'll just deal with them as they come.

MR. LEE: That's the right way to do it, Your Honor.

THE COURT: Okay. Mr. Chu?

MR. CHU: One sentence. We're not giving up assignor estoppel as an issue in the case. It may apply.

THE COURT: That's fine. I would expect.

Here's what we're going to do. I received a note from the jury that they have a verdict. What I'd like for counsel to do while we're taking care of that is to huddle and come back in. I don't know what I'm going to do with respect to the Intel's motion to transfer; however, I do know that my -- in terms of getting you guys on the docket for a Markman is something that every day I wait it's harder to do. So I have the following dates available to do -- I'm going to set aside two days. If you all don't need two days, let me know you don't need two days. And if I decide to transfer it, I'll -- the Markman won't happen. But -- and something that's unusual for me is that the Markman will take place in Waco. Ordinarily it would be in Austin, but all my Fridays are booked now pretty solidly on other cases. So I have available Wednesday, December 4th and December 5th. We have December 5th and December 6th. And I have January 22nd and January 23rd. I'm sensitive to the fact that you guys have, I'm sure, extraordinarily busy dockets. And so but you guys go confer. If there is a date -- if there's one set that works better for everyone, let me know, and I'll take care of this other matter with regard to the jury.

MR. TINDEL: Do we need to move our --

THE COURT: I don't think you need to move anything, but y'all physically should go -- there's a room right around the

corner if you turn to the right that you can go discuss.

(Recess taken from 4:56 to 5:08.)

THE COURT: Mr. Chu, I'll go with you just because you're the plaintiff. Mr. Lee is welcome to stand by you. Have you all picked a date that you think would be best?

MR. CHU: Yes.

THE COURT: And what would that be?

MR. CHU: December 6th.

THE COURT: Just the 6th?

MR. CHU: Just the 6th. Yeah.

THE COURT: Okay.

MR. LEE: We're good with that.

THE COURT: I can get -- I could probably do -- I hate to say this out loud. I could probably get 20 claim terms done in a day I would think. I've done -- I haven't had more than a dozen, but I could probably -- and if we needed to go a long day, we could do that.

MR. LEE: That'd be great.

THE COURT: So if that works best for you all -- here's what we're going to do. I'm going to -- if you all want to provide me with a tutorial, that's fine. I doubt I will take up any time on the 6th with the tutorial. My law clerk to be Josh Yi is sitting in the back of the courtroom. He has a Ph.D. EE so I'm hoping that he -- you know, anything I don't understand, which will be most of it, he'll be able to help me

with as well as you will on a tutorial, but certainly if you want to submit a PowerPoint tutorial -- let me explain what I need -- what helps me in a tutorial. What doesn't help me at all is for you all to take disparate quotes from the -- from the -- why am I blanking on it? This isn't good. From the patent. You know --

MR. CHU: Specification.

THE COURT: Specification. And say, here are 11 sections of the specification. I can read that. What would help me is, you know, this is a chip. You know, this is the functionality in this patent. This was the problem we were having. You know, we couldn't keep power -- we couldn't keep a power supply long enough. When we got -- you know, when we fixed it, you know, this is -- this is one of the ways of fixing it. In other words, something that will put a practical non -- not on the record. You don't get to use the other sided's PowerPoint and say, oh, look what -- they just claimed something in their -- I mean, this is -- you know, if it were an oil and gas case, this is pipe and it goes in the ground and when we put pipe in the ground, we have a problem sometimes with getting saline back in and this is how it was -- how we fixed it using this valve. That's what will be helpful on the tutorial. Obviously on the -- at the Markman that is a different kettle of fish and that will be a very normal Markman.

So you know, with respect to the Markman, I don't care who

goes first. You know, there's no -- there's no limit. In other words, if Mr. Lee goes first on the first claim term and Mr. Chu goes second or whoever, you all will go back and forth until I either feel like I know it or it doesn't help, but there's no -- there's no advantage to going first or second with the exception if one party, and it's usually the plaintiff, says plain and ordinary meaning, I don't need someone to stand up and say, plain and ordinary meaning. I prefer to start with the party that is out proffering a construction. Now, that being said, for example, in a case I had -- I did a Markman about a week ago, whatever it was we were talking about even though I wound up going with plain and ordinary meaning, we did have a discussion over whether or not the plain and ordinary meaning could include hardware, hardware and software or software, and I on the record made it clear that it would -- the plain and ordinary meaning would only include hardware or hardware and software but would not include software alone. So I've done that as well. But I still would prefer if the plaintiff who typically submits a plain and ordinary meaning, I will probably -- I would go with Intel -- I will allow Intel to argue first and explain the basis and then the other side would have the freedom to do whatever they want in responding.

Typically what I'll do, I've done in every case so far. This may be more technical or may be a little longer, but so

far at the end of every argument on each claim term I've given you my claim construction at that time and then within hopefully about three weeks you'll get an order that gives you the substance and the basis for the claim. It won't change it. I have one time in that process corrected something where I left a word out and I realized it as I was typing it and I added that word in, but y'all still got it relatively quickly where I didn't think anyone had been harmed. It was just a scribner's error when I read it. But you should expect a very quick Markman ruling. If I don't do it that day, it would be the next day. And so it's not -- and then as soon as you have the Markman ruling, discovery can commence. I have had parties in the past -- I doubt it would be helpful in this case, given all of the litigation that's going on, but I have had parties in the past ask for a week or two stay on that. So them having the constructions, they could have a discussion over whether or not they wanted to, you know, settle. Doubt it would happen in this case, but I would be open to that.

At the end of the hearing I will set a trial date. You should anticipate a trial date that is roughly -- if y'all are December 6th, it would happen -- the trial will happen almost for sure by the end of 2020.

In terms of length of the trial, depending on how many patents there are -- the lawyers from the last case got -- especially after this trial, but after every trial, I am a

bigger believer than ever in time limits on lawyers, but they're not time limits where I'm trying to accomplish, for example, getting the trial done by the end of the day Friday or cutting anyone off. What I'm going to do is I'm going to ask you all to suggest how many hours you need and then back it up by saying, we've got this many -- we've got to put on these witnesses, these inventors, these experts. I anticipate, Judge, we'll need 15 hours, and I'll probably give you 15 hours. It's just -- I will never again start a trial where the time was unlimited because that doesn't work for anybody. And so lawyers just can't help themselves if they have no ultimate time limit, but y'all will probably get to pick the time limit that I use within reason. It's not a punitive effort. It's -- I just want people to have some bumper that they've got to finish within.

Again, I will work on the order. I don't know what I'm going to do, but we've set the Markman which is good because you have a date. Is there anything else we can take up while you gentlemen are here?

MR. RAVEL: Just a question, Judge.

THE COURT: Sure.

MR. RAVEL: The parties are both asking for variances from the default order, more discovery limits, more time to do it. It doesn't seem like that's a pressing question right now, but it will be when Markman comes up. So how would you like to

resolve that?

THE COURT: My attitude is this. And this is probably for Mr. Lee and Mr. Chu to understand. My goal when we came up with the default scheduling discovery, all that stuff, was to hopefully come up with an order that was fair enough to both sides that neither side wouldn't cooperate in amending it because they already had an advantage. So my attitude is you guys can agree to anything you want. In terms -- how much discovery you do, when it's done, I don't care. You can agree on however you want to do the case. And if you agree to it, God bless you. If you can't agree to it, we've got -- you have the default. And if you can't agree to it and you want to be -- somebody wants to change it, you just need to call me and say, we have an issue over how many -- we'd like to do X and Mr. Chu doesn't want to do X, and I understand you're representing Intel and he's representing his client. I won't be unhappy about that. That's an important part of your job and I will listen to it and I will say, well, here's what we're going to do.

And Mr. Ravel can correct me, but I do always -- I always try and do my best to come to a resolution that I think is the most helpful to the case and so I probably will ask you why you need that and why you don't want it and then I'll probably try and figure out the best solution that I can figure out for the case. So does that answer you?

MR. RAVEL: Yes, Judge.

THE COURT: Anything else?

MR. LEE: Nothing from Intel, Your Honor.

MR. CHU: Not on our side. You were very clear. It sounds superb.

THE COURT: Okay. Again I hope you tell Mr. Regan he was a phenomenal opponent and one of the greatest gentleman I've ever met.

MR. LEE: His office is right next door to mine. So I will for sure.

THE COURT: Okay. You all have a great week what's left of it and I may or may not see this group -- hopefully I will see all of you again. I don't know if it will be in this combination or not, but I appreciate all the lawyer arguments. They were terrific.

MR. CHU: Thank you very much, Your Honor.

(Hearing adjourned at 5:18 p.m.)

UNITED STATES DISTRICT COURT)

WESTERN DISTRICT OF TEXAS)

I, Kristie M. Davis, Official Court Reporter for the United States District Court, Western District of Texas, do certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

Certified to by me this 6th day of August 2019.

/s/ Kristie M. Davis

KRISTIE M. DAVIS
Official Court Reporter
800 Franklin Avenue, Suite 316
Waco, Texas 76701
(254) 340-6114
kmdaviscsr@yahoo.com